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to

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PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2014.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

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Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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DIVISION V. LOCAL BUSINESS AFFAIRS.

TITLE 35. RAILROADS AND OTHER CARRIERS.

SUBTITLE I. GENERAL.

SUBTITLE I. GENERAL.

CHAPTER 2. STREET RAILWAYS AND BUS LINES.

Subchapter II. Student Fares.

§ 35-233. Validity of reduced fares; requirements for eligibility.

(a)(1) On regular school days for regular route transportation during peak and off-peak hours on the Metrobus Transit System within the District, no student shall be charged a bus fare.

(2) The fare to be paid by students on regular school days for regular route transportation during peak and off-peak hours on the Metrorail Transit System within the District shall be ½ of the base boarding peak rail fare charged to passengers other than students and senior citizens for Metrorail travel within the District.

(3) In a case where the reduced student fare as determined in paragraph (2) of this subsection results in an amount that is not a multiple of $.05, the fare shall be rounded downward to the nearest amount that is a multiple of $.05.

(4) Transfers for students between rail and bus shall be made in the same manner as are transfers of other passengers, but without any additional charge for the transfer.

(b)(1) This reduced student fare shall be valid only for transportation of students going to and from public, parochial, and private schools, and to and from related educational activities in the District of Columbia on school days.

(2) Student travel on Metrobus and Metrorail during Saturdays, Sundays, holidays, and vacations shall be charged at the regular rate charged to passengers other than students and senior citizens, except for travel to and from a recognized school-related educational activity in the District of Columbia. The Mayor shall issue rules and regulations to enforce this section.

(c) Reduced fares for students under this section on the Metrobus and Metrorail Transit Systems shall be available only to persons who are under 22 years of age and are:

(1)(A) Residents of the District; and

(B) Currently enrolled in a regular course of instruction at an elementary or secondary public, parochial, or private school located in the District; or

(2) Youth in the District's foster care system until they reach 21 years of age.

(d) Reduced fares for students on the Metrorail Transit System shall be available only to persons who possess a valid student Metrorail discount card.

(e) Notwithstanding subsections (a) and (b) of this section, the fare to be paid by students on regular school days for regular route transportation during peak and off-peak hours on the Metrobus Transit System and on the Metrorail Transit System shall be $.15 from September 26, 1981, until December 31, 1981.

(f)(1) Youth in the District's foster care system shall be eligible for a foster-youth transit-subsidy program ("Program ") as established by the Mayor until they reach 21 years of age.

(2) The Program shall allow qualified foster youth to travel on Metrobus, Metrorail, and public transportation services offered by the District at subsidized or reduced fares.

(3) The subsidized or reduced foster-youth fare set forth in this subsection shall be valid only for the transportation of foster youth for educational or employment purposes.

(Mar. 6, 1979, D.C. Law 2-152, § 2, 25 DCR 2534; Sept. 26, 1981, D.C. Law 4-33, § 2(a), (b), 28 DCR 3187; Sept. 26, 1995, D.C. Law 11-52, § 815, 42 DCR 3684; Oct. 7, 1998, D.C. Law 12-156, § 2, 45 DCR 4617; Sept. 20, 2012, D.C. Law 19-168, § 6082, 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, §§ 2112, 10003, 60 DCR 12472.)

Section references. — This section is referenced in § 35-234, § 35-235, and § 35-236.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added (c)(4); and made related changes.

The 2013 amendment by D.C. Law 20-61 rewrote (a) and (c); and added (f).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2 of the Foster Youth Transit Subsidy Temporary Amendment Act of 2013 (D.C. Law 20-20, October 3, 2013, 60 DCR 10876).

For temporary (225 days) amendment of this section, see §§ 2 and 3 of the School Transit Subsidy Temporary Amendment Act of 2013 (D.C. Law 20-43, December 5, 2013, 60 DCR 14718).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2 of the Foster Youth Transit Subsidy Emergency Act of 2013 (D.C. Act 20-65, May 11, 2013, 60 DCR 7228, 20 DCSTAT 1414).

For temporary (90 days) amendment of this section, see §§ 2 to 4 of the School Transit Subsidy Emergency Act of 2013 (D.C. Act 20-145, July 31, 2013, 60 DCR 11805, 20 DCSTAT 1996).

For temporary (90 days) amendment of this section, see §§ 2 and 3 of the School Transit Subsidy Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-203, October 17, 2013, 60 DCR 15339).

For temporary (90 days) amendment of this section, see §§ 2112 and 10003 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see §§ 2112 and 10003 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support

Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 2111 of D.C. Law 20-61 provided that Subtitle L of Title II of the act may be cited as the "Foster Youth Transit Subsidy Amendment Act of 2013".

Section 10001 of D.C. Law 20-61 provided that Title X of the act may be cited as the "Revised Revenue Estimate Adjustment Allocation Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

TITLE 36. TRADE PRACTICES.

Chapter
3. Retail Service Stations.

Chapter 3. Retail Service Stations.

Subchapter I-A. Security at Retail Service Stations.

§ 36-301.21. Security requirements for retail service stations.

(a) The operator of a retail service station shall install video surveillance equipment to monitor all pumps at the retail service station within 6 months after October 22, 2009. The Metropolitan Police Department shall review the surveillance video in the event of a crime committed at the station.

(b)(1) The operator of a retail service station shall display a warning sign at each pump and at the attendant's duty station that warns:

(A) Always remove the keys from a vehicle;

(B) Lock all doors when exiting a vehicle; and

(C) Premises under surveillance.

(2) The measurements for each sign shall exceed 8 inches by 8 inches.

(3) The text for each sign shall be in boldface and shall exceed a 36-point font.

(4) The text and background for each sign shall be in contrasting colors.

(Apr. 19, 1977 D.C. Law 1-123, § 3-121, as added Oct. 22, 2009, D.C. Law 18-65, § 2, 56 DCR 6606; Sept. 26, 2012, D.C. Law 19-171, § 27, 59 DCR 6190.)

Section references. — This section is referenced in § 36-302.21.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 redesignated subchapter II-A of this chapter as subchapter I-A; and renumbered former § 36-302.21 as § 36-301.21.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 36-301.22. Retail service station security public service announcement.

Within 90 days after October 22, 2009, the Metropolitan Police Department shall produce a public service announcement video which will be available for broadcast on the cable television channels allocated to the District government and made accessible at the Metropolitan Police Department website warning consumers of the potential dangers at retail service stations.

(Apr. 19, 1977 D.C. Law 1-123, § 3-122, as added Oct. 22, 2009, D.C. Law 18-65, § 2, 56 DCR 6606; Sept. 26, 2012, D.C. Law 19-171, § 27, 59 DCR 6190.)

Section references. — This section is referenced in § 36-302.22.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 redesignated subchapter II-A of this chapter as subchapter I-A; and renumbered former § 36-302.22 as § 36-301.22.

Legislative history of Law 19-171. — See note to § 1-301.21.

Subchapter II-A. Security at Retail Service Stations. [Transferred].

§ 36-302.21. Security requirements for retail service stations. [Transferred].

Recodified as § 36-301.21.

(Apr. 19, 1977 D.C. Law 1-123, § 3-121, as added Oct. 22, 2009, D.C. Law 18-65, § 2, 56 DCR 6606.)

§ 36-302.22. Retail service station security public service announcement. [Transferred].

Recodified as § 36-301.22.

(Apr. 19, 1977 D.C. Law 1-123, § 3-122, as added Oct. 22, 2009, D.C. Law 18-65, § 2, 56 DCR 6606.)

Subchapter IV-A. Franchisee Purchase Rights.

§ 36-304.11. Definitions.

CASE NOTES

Retroactive application.

District of Columbia Retail Service Station Amendment Act (RSSA), which restricted assignment of gas station franchise agreements, did not apply retroactively to franchisor's assignment of gas station franchise and sale of station property, which occurred prior to date RSSA became law; RSSA did not contain express retroactivity language and was devoid of any clear implication that it was intended to apply retroactively, and retroactive application of RSSA was disfavored in District of Columbia, given that it imposed new duty on franchisors to offer franchisees right of first refusal. Metroil, Inc. v. ExxonMobil Oil Corp., 672 F.3d 1108, 2012 U.S. App. LEXIS 5712 (C.A.D.C. 2012).

§ 36-304.12. Franchisee's right of first refusal.

CASE NOTES

Retroactive application.

New legal consequences would have attached to events completed before effective date of District of Columbia Retail Service Station Amendment Act (RSSA), which restricted assignment of gas station franchise agreements, and thus presumption against retroactivity applied absent clear showing that Council intended retroactive application, since RSSA could impose damages on franchisors for already completed commercial transactions and it also might require franchisors to unwind completed transactions. Metroil, Inc. v. ExxonMobil Oil Corp., 672 F.3d 1108, 2012 U.S. App. LEXIS 5712 (C.A.D.C. 2012).

CHAPTER 4. TRADE SECRETS.

§ 36-401. Definitions.

CASE NOTES

Burden of proof.

Because the only contradictory evidence proffered by a corporation was the hearsay testimony of its employees, which did not obviously fall into a recognized exception, the corporation had not met its burden of producing admissible evidence as to the existence of a dispute of material fact with respect to defendants' alleged misappropriation of a government contract proposal. Wash. Consulting Group v. Raytheon Tech. Servs. Co., — WLR —, 2013 D.C. Super. LEXIS 5 (Mar. 7, 2013).

TITLE 37. WEIGHTS, MEASURES, AND MARKETS.

Chapter
1. Eastern Market Management and Regulation.
2. Weights, Measures, and Markets Generally.

Chapter 1. Eastern Market Management and Regulation.

§ 37-101. Definitions.

For the purpose of this chapter, the term:

(1) "Agricultural products" means vegetables, fruits, grains, mushrooms, honey, plants, plant cuttings, flowers, herbs, nuts, seeds, bulbs, and rootstock and includes baked or processed foods that are:

(A) Processed in some way by the market vendor; and

(B) Approved by the regulatory authorities.

(2) "Antiques" means items of personal property manufactured or made more than 100 years ago.

(3) "Artist" means an individual who created the works of art offered for sale and includes two or more individuals who work together in creating individual works of art offered for sale.

(4) "Center hall" means the 3,160 square feet of the Eastern Market building on the first and second floors that is between the South Hall and North Hall and which, on April 16, 1999, contained a pottery studio and bathrooms.

(5) "Chief Property Management Officer" ("CPMO") means the Chief Property Management Officer of the District of Columbia Department of General Services.

(6) "Community Arts Center" means a space operated for the promotion of the arts including performances, exhibitions, sales, demonstrations and instruction.

(7) "Community group" means any District-based not-for-profit association or organization whose mission in some way serves the interests of the District's residents.

(8) "Compatible or complementary uses" means uses similar to the other permitted uses of Eastern Market Square or uses that would enhance and not detract from those uses.

(9) "Crafter" means an individual who created the hand-crafted goods offered for sale and includes two or more individuals who work together in creating individual hand-crafted goods offered for sale.

(10) "Eastern Market" means the building at Lot 800, Square 872 in the District of Columbia.

(11) "Eastern Market Community Advisory Committee" ("EMCAC"), means the advisory committee created in § 37-111.

(12) "Eastern Market Special Use Area" means:

(A) Eastern Market Square, including the North Hall Plaza;

(B) The Capitol Hill Natatorium Plaza;

(C) The playground and parking lot of Hine Junior High School, as of December 24, 2013, until commencement of construction with respect to new development on the Hine Junior High School site;

(D) 7th Street, S.E., between North Carolina Avenue, S.E., and Pennsylvania Avenue, S.E., including the area between the curb and near edge of the sidewalk on both the east and west sides of the street and excluding the area between the property line and far edge of the sidewalk on both sides of the street;

(E) The new C Street, S.E., to be constructed between 7th and 8th Streets, S.E., including the area between the curb and near edge of the sidewalk on both the north and south sides of the street and excluding the area between the property line and the far edge of the sidewalk on both sides of the street; and

(F) Other privately owned or controlled lands or buildings that are directly adjacent to the area defined in subparagraphs (A), (B), (C), and (D) of this paragraph, each being subject to a lease or management agreement between the market manager and such owner or controlling entity, and for durations and under conditions defined in the lease or management agreements.

(13) "Eastern Market Square" means the area between the south curb of North Carolina Avenue, S.E., and the north curb of C Street, S.E., and between the west curb of 7th Street, S.E., and the building line with the Capitol Hill Natatorium.

(14) "Eastern Market Tenants Council" means an Eastern Market tenants' group comprised of one representative of each major activity, including, but not limited to, the farmers, South Hall stall holders, Center Hall tenants, North Hall tenants, arts and crafts market vendors, and flea market vendors.

(15) "Farmer" means a market vendor who sells agricultural products, of which at least 70%, during the April-November harvest season was: (A) grown on land owned or leased by the market vendor; (B) grown on land neighboring the land owned or leased by the market vendor; (C) obtained directly from others who have grown the product on land which is owned or leased by the producer; or (D) in the non-harvest season of December-March, a market vendor who sells agricultural products in the harvest season, of which at least 30% was either (A), (B), or (C) of this paragraph.

(16) "Farmers' line" means that portion of the Eastern Market Square (under the existing shed) and extending north to North Carolina Avenue, S.E., and south of the shed along the sidewalk of 7th Street, S.E., to C Street, S.E., as well as the portion of the Eastern Market square between Eastern Market and the curb of C Street, S.E.

(17) "Food merchant" means a market vendor who sells agricultural products or prepared food, both home-grown and food obtained from wholesalers, but primarily from food wholesalers, to retail customers.

(18) "Food wholesaler" means vendors who sell agricultural products grown by themselves and others to a food merchant for resale to retail customers.

(19) "Hand-crafted goods" means items produced or created from raw or basic materials that are changed into a significantly different shape, design, form or function using a special skill, trade or manual art.

(20) "Importers of hand-crafted and indigenous goods" means market vendors who sell items that are ethno-specific and are designed, produced and representative of the country of origin and purchased by the applicant in the country of origin or imported by the market vendor.

(21) "Market manager" means a person or persons, having experience relevant to operating an historic urban fresh food or farmers' market, employed to provide unified and coordinated management for the Eastern Market Special Use Area.

(22) "Market vendor" means an individual, association or corporation (including, but not limited to, any partnership, society, club, joint-stock company, estate, receiver, trustee, assignee, or referee, and any combination of individuals acting as a unit) with a currently enforceable contract or agreement with the market manager and engaged in selling any good in or about the Eastern Market Square and includes any artist, any crafter, any farmer and any merchant.

(23) "North Hall" means the 4,500 square feet of space on the ground floor of the North end of Eastern Market.

(24) "North Plaza" means that portion of Eastern Market Square bounded by the private right of way on the west, North Carolina Avenue, S.E., on the north, the Farmers' Line on the east, and the north face of the Eastern Market building on the south.

(25) Repealed.

(26) "Sidewalk market" means the areas, covered and uncovered, between the building and the street curbs on the south, east and north sides of the Eastern Market building on the Eastern Market Square.

(27) "Sidewalk market stall" means a sidewalk space of at least 32 square feet (normally eight feet by four feet) within which a market vendor is permitted to display and sell goods.

(28) "South Hall" means the 9,500 square feet of the ground floor and basement of the Eastern Market building at the southern end of the building closest to C Street, S.E.

(29) "Tenant" means an individual, association or corporation (including, but not limited to, any partnership, society, club, joint-stock company, estate, receiver, trustee, assignee, or referee, and any combination of individuals acting as a unit) but not limited to organizations and community groups having a written contract with the market manager to occupy space inside the Eastern Market building.

(30) "Vintage goods or collectibles" means any items of personal property previously purchased at retail.

(31) "Works of art" means drawings, paintings, sculptures, photographs, ornamental textiles, ornamental glass, ornamental pottery, and any other items created primarily for aesthetic appreciation.

(Apr. 16, 1999, D.C. Law 12-228, § 2, 46 DCR 1066; Apr. 20, 1999, D.C. Law 12-264, § 22(a), 46 DCR 1066; Sept. 26, 2012, D.C. Law 19-171, § 91(a), 59 DCR 6190; Dec. 24, 2013, D.C. Law 20-61, § 1052, 60 DCR 12472.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "Department of General Services" for "District of Columbia Office of Property Management" in (5); and repealed (25), which formerly read: "'Office of Property Management' ('OPM') means the District of Columbia Office of Property Management."

The 2013 amendment by D.C. Law 20-61 rewrote (12) and (21).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 1052 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1052 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 1051 of D.C. Law 20-61 provided that Subtitle F of Title I of the act may be cited as the "Eastern Market Jurisdiction Clarification Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 37-102. Coordinated management.

(a) The Department of General Services shall supervise and provide coordinated management over all operations in the Eastern Market Square. On April 16, 1999, the District of Columbia shall notify any extant lessees and sub-assignees with an existing lease, contract, agreement or legally binding understanding with respect to any occupant or occupants of the Eastern Market building of the status of their lease or agreement, including the date of termination or expiration of their lease or sub-assignment or any other change to an agreement or legally binding understanding with the District of Columbia that is required by this chapter. The District of Columbia shall remain responsible for capital expenditures for Eastern Market and the Eastern Market Square.

(b) The CPMO may promulgate rules to implement this chapter.

(Apr. 16, 1999, D.C. Law 12-228, § 3, 46 DCR 1066; Sept. 26, 2012, D.C. Law 19-171, § 91(b), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "Department of General Services" for "OPM" in the first sentence of (a).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 37-110. Enforcement.

In the event that a market vendor violates any law, regulation, sidewalk market rule or condition of the market vendor's sub-lease as specified in the contract, the market manager may issue a market violation notice ("MVN") to the market vendor suspending the market vendor's sub-lease until the violation has been cured or corrected. If 3 MVNs are issued to a market vendor during the contract year, the market vendor's sub-lease shall be cancelled. If the market manager decides not to renew a market vendor's sub-lease, the market manager shall give the market vendor written notice on or before January 31. MVNs, cancellation, and any decision not to renew a market vendor's sub-lease shall be effective immediately but may be appealed to the Department of General Services.

(Apr. 16, 1999, D.C. Law 12-228, § 11, 46 DCR 1066; Sept. 26, 2012, D.C. Law 19-171, § 91(c), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "Department of General Services" for "Office of Property Management" in the last sentence.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 1A. VENDING REGULATION.

§ 37-131.01. Definitions.

Section references. — This section is referenced in § 2-1212.01, § 10-1141.02, and § 48-102.

Temporary Amendment of Section. — Section 2(a) of D.C. Law 19-144 added pars. (1A) and (2A) to read as follows:

"(1A) 'Healthy food vendor' means a vendor that sells only unprocessed, unfrozen, whole, raw fruits and vegetables that have not been combined with other ingredients; provided, that the Mayor, by rule, may expand this definition to include other healthy food items.".

"(2A) 'Underserved area' means a historically underutilized business zone, as defined by section 3(p)(1) of the Small Business Act, approved July 18, 1958 (72 Stat. 384; 15 U.S.C. § 632(p)(1)).".

Section 5(b) of D.C. Law 19-144 provided that the act shall expire after 225 days of its having taken effect.

§ 37-131.03. Vending locations.

Temporary Amendment of Section. — Section 2(b) of D.C. Law 19-144, in subsec. (c), substituted "provided, that vending locations on the National Mall and healthy food vendors located in underserved areas shall not be included in this limitation" for "provided, that vending locations on the National Mall shall not be included in this limitation".

Section 5(b) of D.C. Law 19-144 provided that the act shall expire after 225 days of its having taken effect.

§ 37-131.04. Assignment of vending locations.

Temporary Amendment of Section. — Section 2(c) of D.C. Law 19-144 added subsec. (b-1) to read as follows:

"(b-1) Notwithstanding subsection (b) of this section, the Mayor may issue up to 15 vending site permits to healthy food vendors located in underserved areas; provided, that if a vendor receiving a vending site permit ceases to be a healthy food vendor, the Mayor shall revoke the permit.".

Section 5(b) of D.C. Law 19-144 provided that the act shall expire after 225 days of its having taken effect.

§ 37-131.08. Penalties.

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2 of the Vending Regulations Temporary Amendment Act of 2014 (D.C. Law 20- (Act 20-292), _____, 2014, 61 DCR 2433).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 2 of the Vending Regulations Emergency Amendment Act of 2014 (D.C. Act 20-278, February 20, 2014, 61 DCR 1587).

§ 37-131.10. Rules.

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2 of the Vending Regulation Temporary Amendment Act of 2013 (D.C. Law 20-24, Oct. 17, 2013, 60 DCR 11102).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2 of the Vending Regulation Emergency Amendment Act of 2013 (D.C. Act 20-84, June 19, 2013, 60 DCR 9534, 20 DCSTAT 1439).

For temporary (90 days) amendment of this section, see § 2 of the Vending Regulation Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-171, September 30, 2013, 60 DCR 14746).

CHAPTER 2. WEIGHTS, MEASURES, AND MARKETS GENERALLY.

Subchapter I. Weights and Measures Generally

Subchapter I. Weights and Measures Generally.

§ 37-201.18a. Gasoline and fuel pump octane measurement.

(a) The Director shall:

(1) Take samples of automotive fuel wherever it is offered for sale or use in the District of Columbia;

(2) Inspect and test on at least an annual basis and on a random, unannounced basis the octane levels of the gasoline dispensed at each gasoline pump;

(3) Maintain records of all inspections;

(4) If determined to be necessary, at the Director's discretion, enter into contractual agreements with qualified laboratories as a cost-saving measure

for the purpose of analyzing automotive fuel samples if the octane level of the automotive fuel is questioned; and

(5) Issue rules for the enforcement and administration of this subchapter, which may include the adoption by reference of applicable regulations issued by the Federal Trade Commission governing the certification, disclosure, posting, and labeling of automotive fuel.

(b) No automotive fuel may be sold or offered for sale unless approved by the Director.

(c) The Director may conduct investigations to determine compliance with this subchapter.

(d) If the Director determines that an automotive fuel sample does not conform with the standards set out by this subchapter or rules issued pursuant to this subchapter, the Director may take any or all of the following actions to prohibit the sale of the nonconforming automotive fuel or to prohibit the use of the nonconforming dispensing system, storage tank, or other dispensing device:

(1) Seal and mark as sealed the storage tanks from which the sample was drawn or the nonconforming label attached;

(2) Condemn and mark as condemned the dispensing system, storage tank, or other dispensing device from which the sample was obtained or on which the nonconforming label is attached; or

(3) Issue civil infractions under § 2-1801.01 et seq.

(e) If the Director condemns the dispensing system, storage tank, or other dispensing device, the Director may immediately seize and seal, to prevent further sales, any dispensing system, storage tank, or other dispensing device from which automotive fuel is sold or offered for sale in violation of this subchapter or rules issued pursuant to this subchapter.

(f)(1) The Director shall post, in a conspicuous place on the premises where a dispensing system, storage tank, or other dispensing device has been condemned, a notice stating that the condemnation has taken place, the grounds for the condemnation, and a warning that it shall be unlawful to break, mutilate, or destroy any notice, seal, or order issued by the Director regarding the condemnation.

(2) The notice required under this subsection shall remain posted until the Director has reinspected the condemned dispensing system, storage tank, or other dispensing device and determined it to be in compliance.

(g) The Director may assess a civil penalty of not more than:

(1) $5,000 upon a retailer who sells or offers for sale automotive fuel from any dispensing system, storage tank, or other dispensing device that has not been labeled in accordance with the provisions of this subchapter or rules issue pursuant to this subchapter;

(2) $5,000 upon a retailer who allows a person, other than a person designated by the Director, to break, mutilate, or destroy any notice, seal, or order issued by the Director and placed upon a dispensing system, storage tank, or other dispensing device used to deliver or store automotive fuel: and

(3) $20,000 upon a retailer who sells or offers to sell automotive fuel from any dispensing system, storage tank, or other dispensing device that has been condemned by the Director.

(h) In addition to civil penalties assessed pursuant to this subchapter, the Director may suspend a retailer's business license for up to 90 days after the retailer's third violation of this subchapter.

(March 3, 1921, 41 Stat. 1223, ch. 118, § 18a [18b], as added Sept. 20, 2012, D.C. Law 19-168, § 2062, 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added this section.

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Editor's notes. — Section 18a of the Act of Mar. 3, 1921, ch. 118, § 18a, as enacted by the Act of July 7, 1932, 47 Stat. 609, ch. 442, concerning the standard liquid measure for ice cream, was codified as part of § 37-201.19, and later repealed by the Act of Aug. 7, 1964, 78 Stat. 382, Pub. L. 88-405, § 2.

DIVISION VI. EDUCATION, LIBRARIES, AND PUBLIC INSTITUTIONS.

TITLE 38. EDUCATIONAL INSTITUTIONS.

SUBTITLE I. PUBLIC EDUCATION — PRIMARY AND SECONDARY.

SUBTITLE III. PUBLIC EDUCATION — POST SECONDARY.

SUBTITLE IV. PUBLIC EDUCATION — CHARTER SCHOOLS.

SUBTITLE V. EDUCATION PERSONNEL.

SUBTITLE VII. SPECIAL EDUCATION.

SUBTITLE VIII. STATE LEVEL AGENCIES AND ACTIVITIES.

SUBTITLE IX. COLLEGE ACCESS ASSISTANCE.

Chapter
27B. DC Promise Program.

SUBTITLE X. SCHOOL FUNDING.

28. School-Based Budgeting and Accountability.
29. Uniform Per Student Funding Formula.
26B. State Athletic Activities, Programs, and Office Fund.

SUBTITLE I. PUBLIC EDUCATION — PRIMARY AND SECONDARY.

CHAPTER 1. BOARD OF EDUCATION.

Subchapter I. General.

§ 38-102. General policies; expenditures; appointment of employees.

Temporary Addition of Section. — Section 2 of D.C. Law 19-203 created the Public Schools Revenue Generation Fund as follows:

"There is established as a nonlapsing fund the Public Schools Revenue Generation Fund ('Fund'), which shall be used solely as provided in subsection (d) of this section and administered by the District of Columbia Public Schools ('DCPS'). The Fund shall be funded by annual appropriations, which shall be deposited into the Fund."

"(b) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (d) of this section without regard to fiscal year limitation, subject to authorization by Congress.

"(c) Funds deposited into the Fund shall include:

"(1) The sale of tickets to sporting events and school performances ('Ticket Sales'); and

"(2) School facility use agreement and permit fees pursuant to this act ('Use Agreements').

"(d) The Fund shall be used to support the administration, improvement, and maintenance of property and programs managed by DCPS to supplement, but not replace, services provided by DCPS.

"(e) Notwithstanding any other provision of law, DCPS may contract for, pursuant to all applicable contracting and procurement guidelines, Ticket Sales and Use Agreements.

"(f) The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within the 30-day review period, the proposed rules shall be deemed approved."

Section 4(b) of D.C. Law 19-203 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition, see § 2 of the District of Columbia Public Schools Partnership Emergency Act of 2012 (D.C. Act 19-395, July 18, 2012, 59 DCR 8703).

For temporary establishment of the Public Schools Revenue Generation Fund, see § 2 of the District of Columbia Public Schools Partnership Emergency Act of 2012 (D.C. Act 19-395, July 18, 2012, 59 DCR 8703).

For temporary establishment of the Public Schools Revenue Generation Fund, see § 2 of

the District of Columbia Public Schools Partnership Congressional Review Emergency Act of 2012 (D.C. Act 19-543, November 15, 2012, 59 DCR 13586), applicable as of October 16, 2012.

Chapter 1A. District of Columbia Public Schools.

§ 38-171. District of Columbia Public Schools agency; establishment.

Section references. — This section is referenced in § 38-753.02, § 38-755.02, § 38-781.01, § 38-821.01, and § 38-2601.02.

Emergency legislation. — For temporary (90 day) addition of section, see § 4003 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 4082 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 4003 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 day) addition of section, see § 4082 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Chapter 1B. Department of Education.

§ 38-191. Department of Education; establishment; authority.

Section references. — This section is referenced in § 2-1593 and § 38-2803.

Emergency legislation.

For temporary (90 days) limited grant-making authority for the Deputy Mayor for Education, see § 4092 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) limited grant-making authority for the Deputy Mayor for Education, see § 4092 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Short title.

Section 4091 of D.C. Law 20-61 provided that Subtitle I of Title IV of the act may be cited as the "Deputy Mayor for Education Limited Grant-Making Authority Act of 2013".

Editor's notes. — Section 4092 of D.C. Law 20-61 provided that, for fiscal year 2014, the Deputy Mayor for Education shall have grant-making authority solely for the purpose of providing a capital grant of $6 million for facility construction of a language-immersion public charter school serving middle and high school-aged students in the District; provided, that the grant issued under this section shall be administered pursuant to the requirements set forth in part B of subchapter XII-A of Chapter 3 of Title 1 [§ 1-328.11 et seq.].

§ 38-192.01. Adult literacy reporting.

(a) The Office of the Deputy Mayor for Education shall report to the Mayor and the Council, on an annual basis on or before the start of the third quarter of fiscal years 2012 through 2016, on the capacity of District-funded service

providers to meet the need and demand for adult literacy services in the District. The report shall:

(1) Cover the current and the preceding fiscal year;

(2) Identify the office's metrics used for measuring the need and demand for adult literacy support, state the office's quality standards, and measure the performance of District-funded providers of adult literacy services;

(3) Provide an accounting of the total number of adults needing literacy support in the District and by ward;

(4) Provide an accounting of the total number of District-funded providers of adult literacy support services that provide services to District residents, broken down by ward;

(5) Provide an accounting of the total number of openings available for literacy support services from District-funded service providers during the fiscal year reported, broken down by ward and by service provider;

(6) Provide a gap analysis that measures the capacity of District-funded service providers to meet the need and demand for adult literacy services in the District and by ward; and

(7) Propose an adult literacy plan for the next fiscal year to ensure that District-funded programs are meeting the needs of adult learners District-wide and by ward.

(b) To prepare for the adult literacy report, the Office of the Deputy Mayor for Education, shall seek information and support for the development of quality standards and performance measures from community-based providers of adult education and family literacy services, adult learners, funders, District and federal agencies, representatives from the business community, and adult education experts.

(June 12, 2007, D.C. Law 17-9, § 203a, as added Sept. 14, 2011, D.C. Law 19-21, § 4052, 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 92, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 clarified that D.C. Law 19-21, § 4052, added D.C. Law 17-9, § 203a.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Editor's notes. — Applicability: Section 305 of D.C. Law 17-9 provides that this title shall apply upon Congressional enactment of Title IX and inclusion of its effect in an approved budget and financial plan. Congress enacted the provisions of Title IX in Pub. L. 110-33, approved June 1, 2007.

Section 4052 of D.C. Law 19-21 provided:

"Sec. 4052. Adult literacy reporting.

"(a) The Office of the Deputy Mayor for Education shall report to the Mayor and the Council, on an annual basis on or before the start of the third quarter of fiscal years 2012 through 2016, on the capacity of District-funded service providers to meet the need and demand for adult literacy services in the District. The report shall:

"(1) Cover the current and the preceding fiscal year;

"(2) Identify the office's metrics used for measuring the need and demand for adult literacy support, state the office's quality standards, and measure the performance of District-funded providers of adult literacy services;

"(3) Provide an accounting of the total number of adults needing literacy support in the District and by ward;

"(4) Provide an accounting of the total number of District-funded providers of adult literacy support services that provide services to District residents, broken down by ward;

"(5) Provide an accounting of the total number of openings available for literacy support services from District-funded service providers during the fiscal year reported, broken down by ward and by service provider;

"(6) Provide a gap analysis that measures the capacity of District-funded service providers to meet the need and demand for adult literacy services in the District and by ward; and

"(7) Propose an adult literacy plan for the next fiscal year to ensure that District-funded programs are meeting the needs of adult learners District-wide and by ward.

"(b) To prepare for the adult literacy report, the Office of the Deputy Mayor for Education, shall seek information and support for the development of quality standards and performance measures from community-based providers of adult education and family literacy services, adult learners, funders, District and federal agencies, representatives from the business community, and adult education experts."

Short title: Section 4051 of D.C. Law 19-21 provided that subtitle F of title IV of the act may be cited as "Adult Literacy Reporting Act of 2011".

§ 38-193. Evaluation and re-authorization.

(a)(1) By October 1 of each year, beginning in 2009, and every year thereafter, an evaluator shall be retained to conduct an independent evaluation of District of Columbia Public Schools ("DCPS") and of any affiliated education reform efforts. The evaluation shall be conducted according to the standard procedures of the evaluator, with full cooperation of the Council, Mayor, Chancellor, State Superintendent of Education, and other government personnel.

(2) The annual evaluation shall include an assessment of:

(A) Business practices;

(B) Human resources operations and human capital strategies;

(C) All academic plans; and

(D) The annual progress made as measured against the benchmarks submitted the previous year, including a detailed description of student achievement.

(3) The initial evaluation shall incorporate benchmarks and analysis of the best available data to assess annual achievement.

(b) On September 30, 2014, the independent evaluator shall submit to the Council, the State Board of Education, and the Mayor a 5-year assessment of the public education system established by this chapter, which shall include:

(1) A comprehensive evaluation of public education following the passage of this chapter; and

(2) A determination as to whether sufficient progress in public education has been achieved to warrant continuation of the provisions and requirements of this chapter or whether a new law, and a new system of education, should be enacted by the District government.

(c)(1) The evaluations, and assessment, required by this section shall be conducted by the National Research Council of the National Academy of Sciences ("NRC") for the 5-year period described in this section.

(2) By December 31, 2009, prior to conducting the initial evaluation, NRC shall submit to the Council and the Mayor a compilation of data and an analysis plan, which shows:

(A) A description of the procedures and method to be used to conduct the evaluation;

(B) The opportunities for public involvement;

(C) The estimated release dates of interim and final evaluation reports; and

(D) A revised budget and funding plan for the evaluation.

(d) The Office of the Chief Financial Officer shall transfer by October 5, 2009, an amount of $325,000 in local funds through an intra-District transfer from DCPS to the Office of the District of Columbia Auditor to contract with NRC to conduct the initial evaluation required by this section.

(June 12, 2007, D.C. Law 17-9, § 204, 54 DCR 4102; Mar. 3, 2010, D.C. Law 18-111, § 4051(b), 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 93, 59 DCR 6190.)

Section references. — This section is referenced in § 2-1595.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 18-111 which did not affect this section as codified.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 2. COMPULSORY SCHOOL ATTENDANCE AND EXPULSION.

Subchapter I. School Attendance

Part A

Definitions

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Compulsory School Attendance

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Administration.

Sec.

Subchapter I-A. Attendance Zone Boundaries

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Part B

Report

Subchapter III. Truancy and Dropout Prevention

Subchapter I. School Attendance.

PART A.

DEFINITIONS.

§ 38-201. Definitions.

For the purposes of this subchapter, the term:

(1) Repealed.

(2) "District" means the District of Columbia.

(2A) "Educational institution" means a school in the District of Columbia Public Schools system, a public charter school, an independent school, a private school, a parochial school, or a private instructor.

(3) "Minor" means a person who has not reached 18 years of age, pursuant to § 46-101.

(3A) "Parent" means a parent, guardian, or other person who resides in the District and who has custody or control of a minor 5 years of age or older.

(3B) "School-based student support team" means a team formed to support the individual student by developing and implementing action plans and strategies that are school-based or community-based, depending on the availability, to enhance the student's success with services, incentives, intervention strategies, and consequences for dealing with absenteeism.

(4) "School year" means the period from the opening of regular school programs, typically in September, until the closing of regular school programs, typically in June.

(Feb. 4, 1925, ch. 140, Art. I, § 1, as added Mar. 8, 1991, D.C. Law 8-247,§ 2(a), 38 DCR 376; Oct. 26, 2010, D.C. Law 18-242, § 3(a), 57 DCR 7555; June 7, 2012, D.C. Law 19-141, § 302(a), 59 DCR 3083; Sept. 19, 2013, D.C. Law 20-17, § 101(a), 60 DCR 9839.)

Section references. — This section is referenced in § 4-1321.02 and § 38-1800.02.

Effect of amendments.

D.C. Law 19-141 added par. (3A).

The 2013 amendment by D.C. Law 20-17 repealed (1), defining "Board"; added (2A); added (3A); and redesignated former (3A) as (3B).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 101(a) of the Attendance Accountability Emergency Act of 2013 (D.C. Act 20-133, July 30, 2013, 60 DCR 11531, 20 DCSTAT 1973).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-141. — Law 19-141, the "South Capitol Street Memorial Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-211, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 6, 2012, and March 20, 2012, respectively. Signed by the Mayor on April 10, 2012, it was assigned Act No. 19-344 and transmitted to both Houses of Congress for its review. D.C. Law 19-141 became effective on June 7, 2012.

Legislative history of Law 20-17. — Law 20-17, the "Attendance Accountability Amendment Act of 2013", was introduced in Council

and assigned Bill No. 20-72. The Bill was adopted on first and second readings on May 7, 2013 and June 4, 2013, respectively. Signed by the Mayor on June 24, 2013, it was assigned Act No. 20-94 and transmitted to Congress for its review. D.C. Law 20-17 became effective on September 19, 2013.

Short title. — Section 4111 of D.C. Law 20-61 provided that Subtitle K of Title IV of the act may be cited as the "South Capitol Street Memorial Amendment Act of 2013".

Editor's notes. — Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 601 of D.C. Law 19-141, as amended by D.C. Law 20-61, § 4112, provided that §§ 302(b)(1)(A) and (C) and 304(b)(1)(D) of D.C. Law 19-141 shall apply to public charter schools upon the inclusion of their fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. Section 302(b)(1)(A) of D.C. Law 19-141 added § 38-203(i)(A-i); Section 302(b)(1)(C) of D.C. Law 19-141 added § 38-203(i)(B-i); and Section 304(b)(1)(D) of D.C. Law 19-141 added 5 DCMR § A2103(c)(6).

PART B.

COMPULSORY SCHOOL ATTENDANCE.

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§ 38-202. Establishment of school attendance requirements.

(a) Every parent, guardian, or other person, who resides permanently or temporarily in the District during any school year and who has custody or control of a minor who has reached the age of 5 years or will become 5 years of age on or before September 30th of the current school year shall place the minor in regular attendance in an educational institution during the period of each year when the public schools of the District are in session. This obligation of the parent, guardian, or other person having custody extends until the minor reaches the age of 18 years. For the purpose of this section placement in summer school is not required.

(b) Any minor who has satisfactorily completed the senior high school course of study prescribed by the Board and has been granted a diploma that certifies his or her graduation from high school, or who holds a diploma or certificate of graduation from another course of study determined by the Board to be at least equivalent to that required by the Board for graduation from the public senior high schools, shall be excused from further attendance at school.

(c) Any minor who has reached the age of 17 years may be allowed flexible school hours by the Superintendent of Schools provided he or she is actually, lawfully, gainfully, and regularly employed, but in no case shall he or she be excused entirely from regular attendance or excused to the extent that his or her timely graduation would be jeopardized or prevented.

(d) The Board shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to establish requirements to govern acceptable credit for studies completed at independent or private schools and private instruction, to govern the validity of applications for permission to be absent from school, to govern the selection and appointment of appropriate staff members to carry out the provisions of this chapter under the direction of the Superintendent of Schools,

pursuant to Chapter 6 of Title 1, and in respect to other matters within the scope of authority of the Board that relates to this subchapter.

(Feb. 4, 1925, 43 Stat. 806, ch. 140, Art. I, §§ 1, 2; renumbered as Art. II, § 1 and amended, Mar. 8, 1991, D.C. Law 8-247, § 2(a), 38 DCR 376; July 18, 2008, D.C. Law 17-202, § 604, 55 DCR 6297; Sept. 19, 2013, D.C. Law 20-17, § 303(a), 60 DCR 9839.)

Section references. — This section is referenced in § 2-1571, § 16-2309, § 38-203, § 38-206, § 38-1800.02, and § 38-2605.

Effect of amendments.

The 2013 amendment by D.C. Law 20-17 substituted "an educational institution" for "a public, independent, private, or parochial school, or in private instruction" in (a).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 303(a) of the Attendance Accountability Emergency Act of 2013 (D.C. Act 20-133, July 30, 2013, 60 DCR 11531, 20 DCSTAT 1973).

Legislative history of Law 20-17. — See note to § 38-201.

§ 38-203. Enforcement; penalties.

(a) An accurate daily record of the attendance of all minors covered by § 38-202 and this section shall be kept by the teachers of each educational institution. These records shall be open for inspection at all times by the Board, the Superintendent of Schools, school attendance officers, or other persons authorized to enforce this subchapter.

(b) It shall be the duty of each principal, head teacher, teacher who gives private instruction, or school administrative officer as designated in each educational institution to report to the Board the school attendance of any minor covered by § 38-202(a) who is enrolled in a school or who is enrolled for private instruction and who is absent from school or instruction for more than 2 full-day sessions or 4 half-day sessions in any school month, along with a statement of the reasons for the absences.

(c) The absence of a minor covered by § 38-202(a) without valid excuse shall be unlawful.

(d) The parent, guardian, or other person who has custody or control of a minor covered by § 38-202(a) who is absent from school without a valid excuse shall be guilty of a misdemeanor.

(e) Any person convicted of failure to keep a minor in regular attendance in a public, independent, private, or parochial school, or failure to provide regular private instruction acceptable to the Board may be fined not less than $100 or imprisoned for not more than 5 days, or both for each offense.

(f) Each unlawful absence of a minor for 2 full-day sessions or for 4 half-day sessions during a school month shall constitute a separate offense.

(g) For the 1st offense, upon payment of costs, the sentence may be suspended and the defendant may be placed on probation.

(h) For any person convicted under this section, the courts shall consider requiring the offender to perform community service as an alternative to fine or imprisonment or both.

(i) Within 60 days after the end of a school year, each public, independent, private, or parochial school shall report to the Mayor, or the Mayor's designee, and make publicly available, the following data based on the preceding school year:

(A) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, who had unexcused absences for:

(i) One to 5 days;

(ii) Six to 10 days;

(iii) Eleven to 20 days; and

(iv) Twenty-one or more days;

(A-i) The work of the school-based student support teams in reducing unexcused absences, including:

(i) The number of students who were referred to a school-based student support team;

(ii) The number of students who met with a school-based student support team;

(iii) A summary of the action plans and strategies implemented by the school-based student support team to eliminate or ameliorate unexcused absences; and

(iv) A summary of the services utilized by students to reduce unexcused absences;

(v) A summary of the common barriers to implementing the recommendations of the school-based student support team;

(B) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, that the school reported to the Child and Family Services Agency pursuant to § 4-1321.02(a-1) and (a-2);

(B-i) The number of minors categorized by grade, or equivalent grouping for ungraded schools, that the school referred to the Court Social Services Division of the Family Court of the Superior Court of the District of Columbia for truancy; and

(C) The policy on absences, including defined categories of valid excuses, that it used.

(j) By August 1, 2012, the Mayor shall develop, through rulemaking, appropriate enforcement mechanisms to ensure that each school, principal, and teacher is in full compliance with the requirements of this subchapter and any regulations issued pursuant to this subchapter.

(Feb. 4, 1925, 43 Stat. 806, ch. 140, Art. I, §§ 5-7; renumbered as Art. II, § 2 and amended, Mar. 8, 1991, D.C. Law 8-247, § 2(a), 38 DCR 376; Oct. 26, 2010, D.C. Law 18-242, § 3(b), 57 DCR 7555; June 7, 2012, D.C. Law 19-141, § 302(b), 59 DCR 3083; Sept. 19, 2013, D.C. Law 20-17, § 303(b), 60 DCR 9839.)

Section references. — This section is referenced in § 38-2605.

Effect of amendments.

D.C. Law 19-141 added subsecs. (i)(A-i), (B-i), and (j).

The 2013 amendment by D.C. Law 20-17 substituted "educational institution" for "public, independent, private, or parochial school and by every teacher who gives instruction privately" in (a); and, in (b), substituted "head teacher, teacher who gives private instruction" for "head teacher" and "educational institution" for ""educational institution" for "public, independent, private, or parochial school, and each teacher who gives private instruction."

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(b) of the Attendance Accountability Emergency Act of 2013 (D.C. Act 20-133, July 30, 2013, 60 DCR 11531, 20 DCSTAT 1973).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal

Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 38-201.

Legislative history of Law 20-17. — See note to § 38-201.

Short title. — Section 4111 of D.C. Law 20-61 provided that Subtitle K of Title IV of the act may be cited as the "South Capitol Street Memorial Amendment Act of 2013".

Editor's notes. — Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that §§ 302(b)(1), 304, and 502(a) of the act shall apply upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 601 of D.C. Law 19-141, as amended by D.C. Law 20-61, § 4112, provided that §§ 302(b)(1)(A) and (C) and 304(b)(1)(D) of D.C. Law 19-141 shall apply to public charter schools upon the inclusion of their fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. Section 302(b)(1)(A) of D.C. Law 19-141 added § 38-203(i)(A-i); Section 302(b)(1)(C) of D.C. Law 19-141 added § 38-203(i)(B-i); and Section 304(b)(1)(D) of D.C. Law 19-141 added 5 DCMR § A2103(c)(6).

§ 38-204. Census of minors.

The Board, or its designee, shall conduct annually, or as frequently as may be found necessary or desirable, a complete census of all minors 3 years of age or more who permanently or temporarily reside in the District. The census record shall be amended from day to day as changes of residence occur among minors within the age group, as other persons come within or leave the age group, and as other persons within the age group become residents of or leave the District. The census record of minors shall give the full name, address, sex, and date of birth of each minor, the school attended by him or her and, if the minor is not at school, the name and address of his or her employer, if any, and the name, address, telephone numbers, if any, and occupation of each parent or guardian.

(Feb. 4, 1925, 43 Stat. 807, ch. 140, Art. II, § 1; renumbered as Art. II, § 3 and amended, Mar. 8, 1991, D.C. Law 8-247, § 2(a), 38 DCR 376.)

Section references. — This section is referenced in § 38-1802.04, § 38-2605, and § 38-2901.

§ 38-205. Report of enrollments and withdrawals.

The principal, head teacher, or teacher who gives private instruction of each educational institution shall, in accordance with the rules adopted by the Board pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], report to the Board the name, address, sex, and date of birth of each minor who resides permanently or temporarily in the District who transfers between schools or who enrolls in or withdraws from his or her school.

(Feb. 4, 1925, 43 Stat. 807, ch. 140, Art. II, § 2; renumbered as Art. II, § 4 and amended, Mar. 8, 1991, D.C. Law 8-247, § 2(a), 38 DCR 376; Sept. 19, 2013, D.C. Law 20-17, § 303(c), 60 DCR 9839.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-17 substituted "principal, head teacher, or teacher who gives private instruction of each educational institution" for "principal, or head teacher of each public, independent, private, or parochial school, and each teacher who gives private instruction."

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(c) of the Attendance Accountability Emergency Act of 2013 (D.C. Act 20-133, July 30, 2013, 60 DCR 11531, 20 DCSTAT 1973).

Legislative history of Law 20-17. — See note to § 38-201.

§ 38-206. Penalty for failure to provide correct information.

Any parent, guardian, custodian, principal, or teacher of a minor who has reached the age of 3 years who willfully neglects or refuses to provide the information required by §§ 38-202 through 38-206, or who knowingly makes any false statement, shall be guilty of a misdemeanor.

(Feb. 4, 1925, 43 Stat. 807, ch. 140, Art. II, § 3; renumbered as Art. II, § 5 and amended, Mar. 8, 1991, D.C. Law 8-247, § 2(a), 38 DCR 376.)

§ 38-207. Authority of police over truant child.

(a)(1) The Office of the State Superintendent of Education, after consultation with the District of Columbia Public Schools, the Public Charter School Board, the Child and Family Services agency, and the Metropolitan Police Department, shall establish truancy centers in the District of Columbia for the delivery of truant public school and public charter school students by the Metropolitan Police Department.

(2) A law enforcement officer shall take to the nearest truancy center any child who the law enforcement officer has reasonable grounds to believe, based on the child's age and other factors, is truant from a public or public charter school on a day and during the hours when the public or public charter school is in session.

(3) The law enforcement officer shall take into custody any child who the law enforcement officer has reasonable grounds to believe is a truant from any independent, private, or parochial school on a day and during the hours when the independent, private, or parochial school is in session.

(b) On the request of a person who has reached the age of 18 years, graduated from high school, or received a general equivalency diploma, and who has previously been taken into custody pursuant to subsection (a) of this section, the Metropolitan Police Department shall seal all records relating to custody authorized by subsection (a) of this section.

(c) Within 2 business days of a minor student's 10th unexcused absence during a school year, the educational institution shall, under the signature of the Chief of the Metropolitan Police Department, send the minor student's parent a letter notifying the parent that he or she may be in violation of the school attendance requirements under this subchapter and may be subject to prosecution.

(Feb. 4, 1925, ch. 140, Art. II, § 6, as added Aug. 25, 1994, D.C. Law 10-159, § 3, 41 DCR 4884; Oct. 20, 1999, D.C. Law 13-38, § 1906, 46 DCR 6373; Aug.

16, 2008, D.C. Law 17-219, § 4014, 55 DCR 7598; Sept. 19, 2013, D.C. Law 20-17, § 101(b)(1), 60 DCR 9839.)

Prior Codifications. — 1981 Ed., § 38-251.

Effect of amendments.

The 2013 amendment by D.C. Law 20-17 added (c).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 101(b)(1) of the Attendance Accountability Emergency Act of 2013 (D.C. Act 20-133, July 30, 2013, 60 DCR 11531, 20 DCSTAT 1973).

For temporary (90 days) addition of the Act of Feb. 4, 1925, ch. 140, Art. II, § 7, concerning truancy procedures and inter-agency coordination, see § 101(b)(2) of the Attendance Accountability Emergency Amendment Act of 2013 (D.C. Act 20-133, July 30, 2013, 60 DCR 11531, 20 DCSTAT 1973).

For temporary (90 days) addition of the Act of Feb. 4, 1925, ch. 140, Art. II, § 8, concerning reporting requirements, see § 101(b)(2) of the Attendance Accountability Emergency Amendment Act of 2013 (D.C. Act 20-133, July 30, 2013, 60 DCR 11531, 20 DCSTAT 1973).

Legislative history of Law 20-17. — See note to § 38-201.

CASE NOTES

Custody.

Although the minor contended that in light of the language in D.C. Code § 38-251 and D.C. Code § 16-2309, the minor was in custody when he was questioned, and that he was therefore subjected to custodial interrogation in contravention of Miranda, the appellate court found that: (1) the use of the word "custody" in the statutes was not designed to differentiate between detention and custody, a distinction that was critical to the analysis under Miranda; and (2) the proper application of Miranda must be determined by constitutional principles rather than by local law. In re A.J., 63 A.3d 562, 2013 D.C. App. LEXIS 94 (2013).

§ 38-208. Truancy procedures; inter-agency coordination.

(a) If a minor student accumulates 10 unexcused absences during a school year, the educational institution shall notify the Metropolitan Police Department within 2 business days after the 10th unexcused absence.

(b) Within 2 business days of the 10th unexcused absence, the educational institution shall notify the Office of the State Superintendent of Education which shall provide the parent with the truancy prevention resource guide created pursuant to § 38-2602(b)(19); provided, that the parent has not received the truancy prevention resource guide before the 10th unexcused absence.

(c) In addition to the requirements set forth in subsections (a) and (b) of this section:

(1)(A) The educational institution shall refer a minor student 5 years of age through 13 years of age to the Child and Family Services Agency pursuant to § 4-1321.02(a-1), no later than 2 business days after the accrual of 10 unexcused absences within a school year.

(B) Beginning in the 2013-2014 school year, the educational institution shall refer a minor student 14 years of age through 17 years of age to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of the Attorney General Juvenile Section no later than 2 business days after the accrual of 15 unexcused absences within a school year.

(2) Within 3 business days of the Office of the Attorney General, Juvenile Section receiving written notification pursuant to paragraph (1)(B) of this subsection, the Office of the Attorney General shall send the minor student's parent a letter notifying the parent that he or she may be subject to

prosecution for violation of the school attendance requirements under this subchapter.

(Feb. 4, 1925, ch. 140, Art. II, § 7, as added Sept. 19, 2013, D.C. Law 20-17, § 101(b)(2), 60 DCR 9839.)

Prior Codifications. — 2001 Ed., § 38-253.
Effect of amendments. — The 2013 amendment by D.C. Law 20-17 added this section.
Legislative history of Law 20-17. — See note to § 38-201.

§ 38-209. Reporting requirements.

By July 15 of each year, beginning in 2014, the Office of the Attorney General shall submit to the Mayor and the Secretary to the Council a truancy status report on the preceding school year, which shall include the number of:

(1) Referrals it received from each educational institution;

(2) Cases it filed pursuant to this subchapter, and the outcome of each;

(3) Child-in-need of supervision cases filed pursuant to this subchapter, and the outcome of each; and

(4) Students who were enrolled in a court diversion program, or other diversion program pursuant to this subchapter.

(Feb. 4, 1925, ch. 140, Art. II, § 8, as added Sept. 19, 2013, D.C. Law 20-17, § 101(b)(2), 60 DCR 9839.)

Prior Codifications. — 2001 Ed., § 38-254.
Effect of amendments. — The 2013 amendment by D.C. Law 20-17 added this section.
Legislative history of Law 20-17. — See note to § 38-201.

PART C.

ADMINISTRATION.

§ 38-211. Department of School Attendance and Work Permits — Creation. [Repealed].

Repealed.

(Feb. 4, 1925, 43 Stat. 807, ch. 140, Art. III, § 1; Mar. 8, 1991, D.C. Law 8-247, § 2(b), 38 DCR 376.)

Prior Codifications. — 2001 Ed., § 38-207.

§ 38-212. Department of School Attendance and Work Permits — Director; appointments. [Repealed].

Repealed.

(Feb. 4, 1925, 43 Stat. 808, ch. 140, Art. III, § 2; July 21, 1945, 59 Stat. 500, ch. 321, title V, § 21; Mar. 8, 1991, D.C. Law 8-247, § 2(b), 38 DCR 376.)

Prior Codifications. — 2001 Ed., § 38-208.

§ 38-213. Court jurisdiction.

The Family Division of the Superior Court is hereby given jurisdiction in all cases arising under this subchapter.

(Feb. 4, 1925, 43 Stat. 808, ch. 140, Art. III, § 3; May 29, 1928, 45 Stat. 1006, ch. 908, § 26; July 29, 1970, 84 Stat. 578, Pub. L. 91-358, title I,§ 159(g).)

Prior Codifications. — 2001 Ed., § 38-209.

Subchapter I-A. Attendance Zone Boundaries.

§ 38-221. Attendance zone boundaries; establishment, modification, alteration.

Except as required due to a school closure or a consolidation of schools, upon Dec. 24, 2013, notwithstanding any other law or regulation, no approved establishment, modification, or alteration of any attendance zone boundary shall be implemented, or in any manner initiated, until the 2015-2016 school year or with less notice than a full school year to the parent or guardian of each affected student, whichever is greater; provided, that nothing in this section shall prohibit the Chancellor from proposing or implementing changes to school feeder patterns that would result in additional options in next-level schools for a feeder school.

(Dec. 24, 2013, D.C. Law 20-61, § 4072, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 4072 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 4072 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 4071 of D.C. Law 20-61 provided that Subtitle G of Title IV of the act may be cited as the "Attendance Zone Boundaries Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Subchapter II. Expulsion of Students.

PART A.

GENERAL.

§ 38-231. Expulsion of students who bring weapons into public schools.

Section references. — This section is referenced in § 38-235.

Emergency legislation.

For temporary (90 days) requirement that the Office of the State Superintendent of Education provide a suspension and expulsion report, see § 201 of the Attendance Accountability Emergency Act of 2013 (D.C. Act 20-133, July 30, 2013, 60 DCR 11531, 20 DCSTAT 1973).

PART B.

REPORT.

§ 38-235. Suspension and expulsion report.

Within 180 calendar days of September 19, 2013, the Office of the State Superintendent of Education shall submit to the Mayor and the Secretary to the Council a report with findings and recommendations to aid each educational institution to eliminate out-of-school suspensions and expulsions, except for those students who pose a reasonable threat of death or serious bodily harm to themselves or others or violate Part A of this subchapter [§ 38-231 et seq.].

(Sept. 19, 2013, D.C. Law 20-17, § 201, 60 DCR 9839.)

Legislative history of Law 20-17. — See note to § 38-201.

Subchapter III. Truancy and Dropout Prevention.

§ 38-241. Truancy and Dropout Prevention Program.

(a) Subject to the availability of appropriations, the District of Columbia Board of Education, or its successor, and the District of Columbia Public Schools shall offer a Truancy and Dropout Prevention Program for students who are enrolled in the District of Columbia Public Schools system. The programs should be implemented on a full-time basis, work with local schools and parents, and provide resources that will help reduce absences and unexcused absences, and reduce dropout and increase retention rates.

(b) The program shall develop a supportive relationship with the Metropolitan Police Department.

(c) The program shall be available for students who are enrolled in grades

K-12 and for students who are enrolled in ungraded classes in elementary, middle or junior high, and high schools.

(d) Notwithstanding any other law, nothing in this section shall be construed to create an entitlement to a truancy or dropout prevention program for any student.

(March 26, 1999, D.C. Law 12-175, § 1202, 45 DCR 7193.)

Prior Codifications. — 2001 Ed., § 38-252.

Chapter 2A. Pre-Kindergarten Education System.

Subchapter I. Definitions; Administration; and Funding.

§ 38-271.01. Definitions.

For the purposes of this chapter, the term:

(1) "Child-occupied facility" means a building, or portion of a building, which, as part of its function, receives children under 6 years of age on a regular basis and is required to obtain a certificate of occupancy as a precondition to performing that function. The term "child- occupied facility" includes a daycare center, nursery, preschool center, kindergarten classroom, child development center, child development home, child development facility, child-placing agency, infant care center, or similar entity. The location of a child-occupied facility as part of a larger structure does not make the entire structure a child-occupied facility. Only the portion of the facility occupied or regularly visited by children under 6 years of age shall be considered the child-occupied facility.

(1A) "Community-based organization" or "CBO" means a Head Start or early childhood education program operated by a nonprofit entity, faith-based organization, or other entity that participates in federally funded early childhood programs.

(1B) "Coordinating Council" means the State Early Childhood Development Coordinating Council establish pursuant to § 38-271.07.

(1C) "DC Collaborative" means the collaborative of District of Columbia colleges and universities established pursuant to § 38-274.01(a)(3).

(1D) "Elementary and secondary education" means education from and including pre-k through the end of high school or their equivalent.

(2) Repealed.

(2A) "HEIG fund" means the Higher Education Incentive Grant Fund established by § 38-274.03.

(3) "HEI program" means the Higher Education Incentive grant program established pursuant to § 38-274.01.

(3A) "HEI scholarship program" means the scholarship program established pursuant to §§ 38-274.01 and 38-274.02.

(4) "HQ standards" means high-quality content standards and program requirements for pre-k programs established by the OSSE pursuant to § 38-272.01.

(5) "OSSE" means the Office of the State Superintendent of Education, established by Chapter 26 of this title [§ 38-2601 et seq.].

(6) "Pre-k" means the educational gradation available to children of pre-kindergarten age for the 2 years prior to their eligibility for enrollment in kindergarten.

(7) "Pre-k age" means children 3 or 4 years of age, and children who become 5 years of age after September 30th of the upcoming school year.

(8) "Pre-k-education services" means the District-wide educational services provided to the publicly funded CBOs, District of Columbia Public Schools, and Public Charter Schools who provide pre-k care and education services to pre-k age children.

(9) "Pre-k program" means a classroom or a group of classrooms serving pre-k children. A single organization or entity may operate multiple pre-k programs in different locations.

(10) "Professional development" means a data-driven, continuous improvement process that provides a range of formal and informal experiences designed for teaching and administrative staff to increase their knowledge and understanding of research-based, developmentally appropriate content and teaching strategies.

(11) "School readiness" means a child's mastery of approved early-learning standards in the domains of language and literacy, mathematical thinking, social and emotional development, scientific inquiry, social studies, approaches to learning, and health.

(12) "Technical assistance" means the human and technological resources that support the establishment of age-appropriate classroom environments, provide strategies that develop children's early language and literacy development and mathematical thinking, aid in the mastery of early-learning standards, and develop appropriate instructional strategies for children with disabilities and for children whose first language is not English.

(13) "Workforce development" means a range of educational and training experiences that support and increase the capacity of individuals to enter and remain a part of the early-care and education-labor market.

(July 18, 2008, D.C. Law 17-202, § 101, 55 DCR 6297; Mar. 8, 2011, D.C. Law 18-285, § 2(a), 57 DCR 11005; Sept. 14, 2011, D.C. Law 19-21, § 9061(a), 58 DCR 6226; Apr. 20, 2013, D.C. Law 19-262, § 303(a), 60 DCR 1300.)

Section references. — This section is referenced in § 2-1595, § 7-2031, § 38-1802.14, and § 38-2602.

Effect of amendments.

The 2013 amendment by D.C. Law 19-262 added (1); and redesignated former (1), (1A), (1B), and (1C) as present (1A), (1B), (1C), and (1D), respectively.

Legislative history of Law 19-262. — Law 19-262, the "Sustainable DC Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-756. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 16, 2013, it was assigned Act No. 19-615 and transmitted to Congress for its review. D.C.

Law 19-262 became effective on Apr. 20, 2013.

§ 38-271.02. Administration of pre-k.

(a) The OSSE shall oversee CBO pre-k education services, including:

(1) All programs, including curricula;

(2) All related state and federal early childhood programs;

(3) Any licensure requirements;

(4) Fiscal matters;

(5) Funding to:

(A) Maximize the use of federal funds and other resources;

(B) Minimize inefficiencies and programmatic barriers;

(C) Ensure that children are placed on the appropriate funding streams; and

(D) Ensure that funds authorized by this chapter are used to supplement, not supplant, other funding sources that finance education programs for children of pre-k age;

(6) The alignment and monitoring of standards and teaching practices between pre-k and grades kindergarten through 3rd grade; and

(7) The implementation of an external evaluation of all pre-k programs, including the measurement of progress toward school-readiness benchmarks.

(b) The OSSE shall:

(1) Coordinate with the Interagency Collaboration and Services Integration Commission, established by § 2-1594, to ensure that eligible families can access coordinated support services for their children of pre-k age;

(2) In regard to pre-k programs in public schools and public charter schools, consult with local education agencies and the Public Charter School Board, established by § 38-1802.14, to ensure that the goals of this chapter are met;

(3) Establish facilities requirements for classroom expansion and quality improvement, to be utilized by the Office of Public Education Facilities Modernization, established by § 38-451 [repealed], to complete the capital improvements and renovation of facilities;

(4) Develop high-quality content standards for all pre-k programs, which have been approved by the State Board of Education;

(5) Develop and oversee a monitoring, assessment, and accountability process for all programs within the pre-k-education system;

(6) Promulgate a process for pre-k programs that fail to attain the required high-quality standards by September 1, 2014, which may include:

(A) A reduction or elimination of local funding;

(B) Denial of licensure; or

(C) Revocation of licensure;

(7) Promulgate a quality-improvement process for pre-k programs that, after 2014, fail to maintain for a period of time, as determined by OSSE, the required high-quality standards, which may include:

(A) Adherence to a quality-improvement plan;

(B) A reduction or an elimination of local funding;

(C) Denial of licensure; or

(D) Revocation of licensure;

(8) Develop and administer the technical assistance program across all pre-k education services.

(9) Collect and disseminate to the public on an ongoing basis child and program data; and

(10) Consider developing a sliding-fee scale for enrollment in pre-k of children whose family income is above 250% of the federal poverty guideline.

(c) The OSSE shall not issue a license for a child-occupied facility located within 200 feet of a dry cleaning facility that uses perchloroethylene or n-propyl bromide as a cleaning agent for clothes or other fabrics. The 200-foot restriction shall not apply at a location where a child- occupied facility is applying for renewal of an existing license.

(July 18, 2008, D.C. Law 17-202, § 102, 55 DCR 6297; Mar. 8, 2011, D.C. Law 18-285, § 2(b), 57 DCR 11005; Apr. 20, 2013, D.C. Law 19-262, § 303(b), 60 DCR 1300.)

Section references. — This section is referenced in § 38-271.06, § 38-273.01, and § 38-2602.

Effect of amendments.

The 2013 amendment by D.C. Law 19-262 added (c).

Legislative history of Law 19-262. — See note to § 38-271.01.

CHAPTER 3. RESIDENCY REQUIREMENT AND NONRESIDENT TUITION.

§ 38-312. False information; penalty.

The fact that a parent or caregiver of a student has provided satisfactory evidence of residency or other primary caregiver status pursuant to this chapter shall not prevent a principal or other school administrator, a chartering authority, or the Office of the State Superintendent of Education from establishing by information and other evidence that a student or the student's parent or primary caregiver is not in fact a District of Columbia resident or an other primary caregiver. Any person, including any District of Columbia public schools or public charter school official, who knowingly supplies false information to a public official in connection with student residency verification shall be subject to charges of tuition retroactively, and payment of a fine of not more than $2,000, or imprisonment for not more than 90 days, but not both a fine and imprisonment. The case of a person who knowing supplies false information may be referred by the Office of the State Superintendent of Education to the Office of Attorney General for consideration for prosecution.

(Sept. 8, 1960, 74 Stat. 854, Pub. L. 86-725, § 15, as added Dec. 7, 2004, D.C. Law 15-205, § 4012(c), 51 DCR 8441; May 9, 2012, D.C. Law 19-126, § 2(a), 59 DCR 1939.)

Effect of amendments. — D.C. Law 19-126 rewrote the section, which formerly read:

"The fact that a parent or caregiver of a student has provided satisfactory evidence of residency or other primary caregiver status pursuant to this chapter shall not prevent a principal or other school administrator, the Board of Education, a chartering authority, or the State Education Office from establishing by information and other evidence that a student or the student's parent or primary caregiver is not in fact a District of Columbia resident or an other primary caregiver. Any person, including any District of Columbia public schools or public charter school official, who knowingly supplies false information to a public official in connection with student residency verification shall be subject to charges of tuition retroactively, payment of a fine of not more than $500, or imprisonment for not more than 90 days, or any combination thereof. The case of a person who knowing supplies false information may be referred to the Office of the Attorney General for consideration for prosecution."

Emergency legislation.

For temporary (90 day) repeal of section 3 of D.C. Law 19-126, see § 7012 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 3 of D.C. Law 19-126, see § 7012 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-126. — Law 19-126, the "District of Columbia Public Schools and Public Charter School Student Residency Fraud Prevention Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-228, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on January 4, 2012, and February 7, 2012, respectively. Signed by the Mayor on March 1, 2012, it was assigned Act No. 19-320 and transmitted to both Houses of Congress for its review. D.C. Law 19-126 became effective on May 9, 2012.

Editor's notes. — Section 3 of D.C. Law 19-126 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. D.C. Law 19-126, § 3, was repealed by D.C. Law 19-168, § 7012.

§ 38-312.01. False information hotline.

(a) The Office of the State Superintendent of Education shall establish a hotline to receive tips and information regarding the non-District residence, or other primary caregiver status, of a parent or a primary caregiver of a student in a District of Columbia public school or a public charter school.

(b) District of Columbia public schools and public charter schools shall post a sign, which is clearly visible and not smaller than 8.5 inches by 11 inches, at each location where admission procedures take place and in each principal's office, notifying the public of the hotline and of the penalties set forth in this chapter.

(c) The Office of the State Superintendent of Education shall ensure that District of Columbia public schools and public charter schools investigate an allegation received through the hotline or through any other source of information.

(d)(1) The Office of the State Superintendent of Education shall refer to the Office of the Attorney General all cases concerning any person, including any official of a District of Columbia public school or public charter school, who knowingly supplies false information to a public official in connection with the verification of residency or primary caregiver status.

(2) The Attorney General shall keep a log of all cases referred by the Office of the State Superintendent of Education and issue a report by May 1, 2012. The report shall include:

(A) The number of cases reported pursuant to this subsection;
(B) The number of students involved in each case;
(C) A list of schools involved in each case; and
(D) The resources needed to prosecute each case.

(Sept. 8, 1960, 74 Stat. 854, Pub. L. 86-725, § 15a, as added May 9, 2012, D.C. Law 19-126, § 2(b), 59 DCR 1939.)

Emergency legislation. — For temporary (90 day) repeal of section 3 of D.C. Law 19-126, see § 7012 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 3 of D.C. Law 19-126, see § 7012 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-126. — For history of Law 19-126, see notes under § 38-312.

Editor's notes. — Section 3 of D.C. Law 19-126 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. D.C. Law 19-126, § 3, was repealed by D.C. Law 19-168, § 7012.

§ 38-312.02. Student Residency Verification Fund.

(a) There is established as a nonlapsing fund the Student Residency Verification Fund ("Fund"), which shall be used for the purposes set forth in subsection (b) of this section. All funds deposited in the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(b) The Fund shall be used solely to fund enforcement activities concerning student residency and primary caregiver status verification.

(c) The Fund shall be administered by the Office of the State Superintendent of Education.

(d) There shall be deposited into the Fund all payments collected pursuant to this chapter.

(Sept. 8, 1960, 74 Stat. 854, Pub. L. 86-725, § 15b, as added May 9, 2012, D.C. Law 19-126, § 2(b), 59 DCR 1939.)

Emergency legislation. — For temporary (90 day) repeal of section 3 of D.C. Law 19-126, see § 7012 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 3 of D.C. Law 19-126, see § 7012 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-126. — For history of Law 19-126, see notes under § 38-312.

Editor's notes. — Section 3 of D.C. Law 19-126 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. D.C. Law 19-126, § 3, was repealed by D.C. Law 19-168, § 7012.

§ 38-312.03. Report on the status of residency fraud investigations, levying and collection of fines, and retroactive tuition.

The Mayor shall submit a report to the Council on the status of residency fraud investigations and the levying and collection of fines and retroactive tuition within 30 days of May 9, 2012, and on an annual basis thereafter. The report for each local education agency shall include:

(1) The number of cases investigated due to suspected fraud;

(2) The number of cases that were determined to be residency fraud;

(3) Of the cases that were determined to be residency fraud, the number that were assessed fines or retroactive tuition charges;

(4) The amount of fines and retroactive tuition charges imposed; and

(5) The amount of fines and retroactive tuition collected.

(Sept. 8, 1960, 74 Stat. 854, Pub. L. 86-725, § 15c, as added May 9, 2012, D.C. Law 19-126, § 2(b), 59 DCR 1939.)

Emergency legislation. — For temporary (90 day) repeal of section 3 of D.C. Law 19-126, see § 7012 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 3 of D.C. Law 19-126, see § 7012 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-126. — For history of Law 19-126, see notes under § 38-312.

Editor's notes. — Section 3 of D.C. Law 19-126 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. D.C. Law 19-126, § 3, was repealed by D.C. Law 19-168, § 7012.

CHAPTER 3A. OMBUDSMAN FOR PUBLIC EDUCATION.

§ 38-351. Office of Ombudsman for Public Education; establishment; term.

(a) There is established within the State Board of Education an Office of Ombudsman for Public Education, which shall be headed by an ombudsman appointed by the State Board of Education.

(b)(1) The Ombudsman shall be a District resident within 180 days of appointment.

(2) The Ombudsman shall serve for a term of 5 years, and may be reappointed.

(3) After notice and an opportunity to be heard, the Ombudsman may be removed only for cause that relates to the Ombudsman's character or efficiency by a majority vote of the State Board of Education.

(c) If a vacancy in the position of ombudsman occurs as a consequence of

resignation, disability, death, or other reasons other than the expiration of the term, the State Board of Education shall appoint an ombudsman to fill the unexpired term within 75 days of the occurrence of the vacancy.

(d) The purpose of the Ombudsman is to serve as a neutral resource for current and prospective public school students and their parents or guardians in the resolution of complaints and concerns regarding public education.

(e) For the purposes of this chapter, the term "public school" means District of Columbia Public Schools and public charter schools in the District of Columbia.

(June 12, 2007, D.C. Law 17-9, § 602, 54 DCR 4102; Apr. 27, 2013, D.C. Law 19-284, § 3(a), 60 DCR 2312; Feb. 22, 2014, D.C. Law 20-76, § 102(a), 61 DCR 39.)

Section references. — This section is referenced in § 38-1802.04 and § 38-2652.

Effect of amendments. — The 2013 amendment by D.C. Law 19-284 rewrote the section; and added "for Public Education" to the section heading.

The 2014 amendment by D.C. Law 20-76 added (d) and (e).

Emergency legislation. — For temporary (90 days) repeal of D.C. Law 19-284, § 5, see § 7016 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 19-284, § 5, see § 7016 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-284. — Law 19-284, the "State Board of Education Personnel Authority Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-774. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-651 and transmitted to Congress for its review. D.C. Law 19-284 became effective on April 27, 2013.

Legislative history of Law 20-76. — Law 20-76, the "Parent and Student Empowerment Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-314. The Bill was adopted on first and second readings on November 5, 2013 and December 3, 2013, respectively. Signed by the Mayor on December 16, 2013, it was assigned Act No. 20-242 and transmitted to Congress for its review. D.C. Law 20-76 became effective on February 22, 2014.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

Editor's notes.

Applicability of D.C. Law 19-284: Section 5 of D.C. Law 19-284 provided that section 3 of the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 7016 of D.C. Law 20-61 repealed D.C. Law 19-284, § 5.

§ 38-353. Duties.

The Ombudsman shall:

(1) Provide outreach to current and prospective public school students and their parents or guardians, and to further this purpose, have the cooperation of all individuals within the public school system;

(2) Encourage communication between public schools and current and prospective public school students and their parents or guardians regarding public education;

(3) Serve as a vehicle for current and prospective public school students and their parents or guardians to communicate their complaints and concerns regarding public education through a single office;

(4) Respond to complaints and concerns in a timely fashion with accurate and helpful information;

(5) Receive complaints from current and prospective public school students and their parents or guardians concerning public education, including personnel actions, policies, and procedures;

(6) Determine the validity of any complaint quickly and professionally;

(7) Examine and address valid complaints and concerns;

(8) Generate options for a response, and offer a recommendation among the options;

(9) Refer complainants to a public school official, agency, department, or resource, when appropriate;

(10) Except when the parties are involved in legal or administrative proceedings, resolve complaints presented by current and prospective public school students and their parents or guardians, either through complaint resolution services as established pursuant to § 38-356 or through other informal measures;

(11) Develop and maintain a database that tracks complaints and concerns, identified by grade level and by the public school, and the resolution of complaints and concerns;

(12) Repealed.

(13) Identify systemic concerns and recommend to the State Board of Education policy changes, staff training, and strategies to improve public education; and

(14) Repealed.

(15) Within 90 days after the end of each school year, submit to the State Board of Education, and make publicly available, a report summarizing the work of the Ombudsman during the previous school year, which shall, at minimum, include an analysis of the types and number of:

(A) Complaints received;

(B) Complaints examined and resolved informally;

(C) Complaints examined and resolved through a formal process;

(D) Complaints dismissed as unfounded;

(E) Complaints pending;

(F) Recommendations made;

(G) Recommendations that were followed, to the extent that it can be determined.

(June 12, 2007, D.C. Law 17-9, § 604, 54 DCR 4102; Apr. 27, 2013, D.C. Law 19-284, § 3(b), 60 DCR 2312; Feb. 22, 2014, D.C. Law 20-76, § 102(b), 61 DCR 39.)

Section references. — This section is referenced in § 38-191.

Effect of amendments. — The 2013 amendment by D.C. Law 19-284 rewrote (12); and in the introductory language of (15), substituted "45 days" for "90 days", and substituted "Deputy Mayor for Education, the Council, the State Board of Education a report, which shall be posted on their websites" for "Deputy Mayor for Education a report".

The 2014 amendment by D.C. Law 20-74 deleted the subsection (a) designation; substituted "current and prospective public school students and their parents or guardians" for "residents and parents" in (1); substituted "current and prospective public school students and

their parents or guardians" for "citizens" in (3); rewrote (2), (5), (9), (10), (11), and (15); and repealed (12) and (14).

Emergency legislation. — For temporary (90 days) repeal of D.C. Law 19-284, § 5, see § 7016 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 19-284, § 5, see § 7016 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-284. — See note to § 38-351.

Legislative history of Law 20-76. — See note to § 38-351.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 19-284: Section 5 of D.C. Law 19-284 provided that section 3 of the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 7016 of D.C. Law 20-61 repealed D.C. Law 19-284, § 5.

§ 38-354. Authority.

The Ombudsman shall:

(1) Have access to books, records, files, reports, findings, and all other papers, items, or property ("documents") belonging to or in use by all departments, agencies, instrumentalities, and employees of public schools necessary to facilitate the purpose of this chapter excluding the Executive Office of the Mayor, the Council, and the District of Columbia courts; provided, that such access is limited to documents related to the student or parent or guardian that the Office of Ombudsman is assisting;

(2) Have full access to student educational records as allowed by federal and local law;

(3) Speak in regard to educational issues under the purview of the Office of Ombudsman with any official or employee within the public school system without the permission of the individual's supervisor;

(4) Examine an act or failure to act of any official or employee within the public school system;

(5) Determine which complaints and concerns warrant further examination;

(5A) Bring persons together to resolve conflicts that are not in formal legal or administrative proceedings[;]

(6) Examine any matter under the purview of the Office of Ombudsman, whether initiated by a complaint or another means;

(7) Forward to the Office of the Inspector General all complaints and concerns that require an audit or investigation of a school or a program, agency, or department within DCPS that falls within the purview of the Office of the Inspector General; and

(8) Forward to the Deputy Mayor for Education any policy recommendations that the Ombudsman determines would be helpful to prevent and detect corruption, mismanagement, waste, fraud, and abuse within DCPS.

(June 12, 2007, D.C. Law 17-9, § 605, 54 DCR 4102; Apr. 27, 2013, D.C. Law 19-284, § 3(c), 60 DCR 2312; Feb. 22, 2014, D.C. Law 20-76, § 102(c), 61 DCR 39.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-284 added (5A).

The 2014 amendment by D.C. Law 20-74 rewrote (1); and substituted "Office of Ombudsman, whether initiated by a complaint or another means" for "Office of Ombudsman absent a complaint" in (6).

Emergency legislation. — For temporary (90 days) repeal of D.C. Law 19-284, § 5, see § 7016 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 19-284, § 5, see § 7016 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-76. — See note to § 38-351.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 19-284: Section 5 of D.C. Law 19-284 provided that section 3 of the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 7016 of D.C. Law 20-61 repealed D.C. Law 19-284, § 5.

§ 38-355. Limitations; protections.

(a) The Ombudsman shall not:

(1) Disclose personally identifiable information regarding a student without the specific written consent of the student or parent, as required by federal and local law;

(2) Disclose the substance of a conversation with any teacher or other official or employee within the public school system without consent;

(3) Disclose the identity of any person who brings a complaint or provides information to the Ombudsman without the person's consent, unless the Ombudsman determines that disclosure is unavoidable or necessary to further the ends of an investigation;

(4) Have the authority to take any personnel action;

(4A) Examine or investigate any matter that would be under the jurisdiction of the Office of the Inspector General or the Office of District of Columbia Auditor;

(5) Examine the Executive Office of the Mayor, the Council or its personnel, the District of Columbia courts or its personnel, other elected officials, private schools, or private organizations or businesses; or

(6) Provide legal advice or legal representation.

(b) The Ombudsman shall not:

(1) Be compelled to testify in a legal or administrative proceeding regarding an Office of Ombudsman examination or to release information gathered during the course of an examination or investigation;

(2) Be held personally liable for the good faith performance of his or her responsibilities under this chapter, except that no immunity shall extend to criminal acts, or other acts that violate District or federal law; or

(3) Be subject to retaliatory action for the good faith performance of his or her responsibilities under this chapter.

(June 12, 2007, D.C. Law 17-9, § 606, 54 DCR 4102; Apr. 27, 2013, D.C. Law 19-284, § 3(d), 60 DCR 2312; Feb. 22, 2014, D.C. Law 20-76, § 102(d), 61 DCR 39.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-284 added (a)(4A).

The 2014 amendment by D.C. Law 20-76 rewrote (a)(5); and added (a)(6) and made related changes.

Emergency legislation. — For temporary (90 days) repeal of D.C. Law 19-284, § 5, see § 7016 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 19-284, § 5, see § 7016 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-284. — See note to § 38-351.

Legislative history of Law 20-76. — See note to § 38-351.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 19-284: Section 5 of D.C. Law 19-284 provided that section 3 of the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 7016 of D.C. Law 20-61 repealed D.C. Law 19-284, § 5.

§ 38-356. Complaint resolution services.

(a) The Office of Ombudsman shall provide complaint resolution services, which shall be available to current and prospective public school students and their parents or guardians.

(b) Participation in complaint resolution services provided by the Office of Ombudsman shall be voluntary.

(c) Before submitting a complaint to the Office of Ombudsman, the complainant shall make reasonable efforts to resolve the issue at the school level.

(d) Complainants may submit complaints by phone, in writing, or electronically.

(e) The Office of Ombudsman shall review and investigate each complaint and shall do one or more of the following:

(1) Resolve the complaint;

(2) Refer the complainant to another agency or department;

(3) Require the complainant to submit documentation to support the complaint;

(4) Provide an opportunity for the complainant to meet with the subject of the complaint;

(5) Conduct mediation proceedings;

(6) Dismiss the complaint as unfounded; or

(7) Take any other action determined necessary and appropriate by the Ombudsman.

(June 12, 2007, D.C. Law 17-9, § 606a, as added Feb. 22, 2014, D.C. Law 20-76, § 102(e), 61 DCR 39.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-76 added this section.

Legislative history of Law 20-76. — See note to § 38-351.

Chapter 3B. Office of the Student Advocate.

§ 38-371. Office of the Student Advocate.

[Not funded].

(Feb. 22, 2014, D.C. Law 20-76, § 202, 61 DCR 39.)

Section references. — This section is referenced in § 38-2652.

Legislative history of Law 20-76. — Law 20-76, the "Parent and Student Empowerment Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-314. The Bill was adopted on first and second readings on November 5, 2013 and December 3, 2013, respectively. Signed by the Mayor on December 16, 2013, it was assigned Act No. 20-242 and transmitted to Congress for its review. D.C. Law 20-76 became effective on February 22, 2014.

Editor's notes. — Applicability of D.C. Law 20-74: Section 401 of D.C. Law 20-74 provided that Title II [§§ 201-205] of the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 38-372. Chief Advocate; qualification.

[Not funded].

(Feb. 22, 2014, D.C. Law 20-76, § 203, 61 DCR 39.)

Legislative history of Law 20-76. — See note to § 38-371.

Editor's notes. — Applicability of D.C. Law 20-74: Section 401 of D.C. Law 20-74 provided that Title II [§§ 201-205] of the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 38-373. Duties.

[Not funded].

(Feb. 22, 2014, D.C. Law 20-76, § 204, 61 DCR 39.)

Legislative history of Law 20-76. — See note to § 38-371.

Editor's notes. — Applicability of D.C. Law 20-74: Section 401 of D.C. Law 20-74 provided that Title II [§§ 201-205] of the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 38-374. Public education resource centers.

[Not funded].

(Feb. 22, 2014, D.C. Law 20-76, § 205, 61 DCR 39.)

Legislative history of Law 20-76. — See note to § 38-371.

Editor's notes. — Applicability of D.C. Law 20-74: Section 401 of D.C. Law 20-74 provided

that Title II [§§ 201-205] of the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

CHAPTER 4. USE OF SCHOOL BUILDINGS.

§ 38-409. Control of school buildings; disposition of proceeds.

Temporary Addition of Section. — Sections 2 and 3 of D.C. Law 19-227 added provisions concerning school-based enrichment programs to read as follows:

"Sec. 2. Notwithstanding any other provision of law, during the 2012-13 school year, the District shall not charge rent to a parent-run, before- or after-school enrichment program operating in a District public school; provided, that the program:

"(1) Operates on a not-for-profit basis;

"(2) Has been approved by the school to operate during the 2012-2013 school year;

"(3) Has an approved building use agreement for 2012-2013 with the District;

"(4) Meets the District's insurance requirements; and

"(5) Pays any actual costs for security, custodial, or other services that the District requires.

"Sec. 3. (a) The Department of General Services ("DGS") shall develop a District-wide procedure for the use of District schools by parent-run, nonprofit enrichment programs, including a process for obtaining permission to use spaces in school, the amount of insurance the programs are required to obtain, and any operational fees or costs that the programs shall be required to pay to the District.

"(b) On or before March 15, 2013, DGS shall:

"(1) Post a draft of the procedure set forth in subsection (a) of this section on its website for public comment; and

"(2) E-mail notice of the draft procedure with information on how to provide comment to the chairs of all Local School Advisory Teams.

"(c) On or before May 15, 2013, DGS shall finalize the procedure set forth in subsection (a) of this section, which shall take effect at the start of the 2013-2014 school year, and shall post details about the procedure on its website."

Section 5(b) of D.C. Law 19-227 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary addition of provisions concerning the use of District public schools for school-based enrichment programs and the development of a plan for that use, see §§ 2 and 3 of the School-Based Enrichment Programs Emergency Act of 2012 (D.C. Act 19-529, November 2, 2012, 59 DCR 13330).

For temporary (90 days) school-based enrichment programs, see §§ 2 and 3 of the School-Based Enrichment Program Congressional Review Emergency Act of 2013 of 2013 (D.C. Act 20-1, January 25, 2013, 60 DCR 2758, 20 DCSTAT 407).

CHAPTER 6. STUDENT HEALTH CARE.

Subchapter IV. Student Access to Treatment

Subchapter IV. Student Access to Treatment.

§ 38-651.04. Medication administration training program.

(a) By July 1, 2008, the Mayor shall develop and implement a medication administration training program, which shall provide training and certification of employees and agents of a school to:

(1) Administer medication to students with valid medication action plans who are not authorized to possess that medication or are not competent to self-administer the medication; and

(2) Administer medication in emergency circumstances to any student experiencing an acute episode of asthma, anaphylaxis, or other illness.

(b) All training provided pursuant to subsection (a) of this section shall be conducted by a health-care professional licensed in the District of Columbia.

(c) A health-care professional shall provide a school with written certification of successful completion of the training for each employee or agent of the school. The certification shall be valid for 3 years.

(Feb. 2, 2008, D.C. Law 17-107, § 5, 54 DCR 12230; Sept. 26, 2012, D.C. Law 19-169, § 24, 59 DCR 5567.)

Section references. — This section is referenced in § 38-651.05 and § 38-651.06.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "experiencing" for "suffering" in (a)(2).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CHAPTER 7A. FINANCIAL LITERACY.

Sec.
38-731.01. Definitions.

§ 38-731.01. Definitions.

For the purposes of this chapter, the term:

(1) "Financial literacy" means the ability to make informed decisions about one's personal finances, based on an understanding of the principles of credit, debt, savings and investments, depository institutions, interest, and budgeting.

(2) "Financial Literacy Council" means the District of Columbia Financial Literacy Council.

(Aug. 15, 2008, D.C. Law 17-209, § 2, 55 DCR 6979.)

CHAPTER 7B. EDUCATION PREPAREDNESS.

Subchapter I. Early Warning and Support System

Sec.
38-751.01. Short title.
38-751.02. Definitions.
38-751.03. Pilot early warning and support system.
38-751.04. Survey.
38-751.05. Report.

Subchapter II. Post-Secondary Preparation Plan

38-752.01. Short title.

Subchapter I. Early Warning and Support System.

§ 38-751.01. Short title.

This subchapter may be cited as the "Early Warning and Support System Act of 2012".

(June 19, 2012, D.C. Law 19-142, § 101, 59 DCR 3642.)

Legislative history of Law 19-142. — Law 19-142, the "Raising the Expectations for Education Outcomes Omnibus Act of 2012", was introduced in Council and assigned Bill No. 19-648, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 6, 2012, and March 20, 2012, respectively. Signed by the Mayor on April 20, 2012, it was assigned Act No. 19-345 and transmitted to both Houses of Congress for its review. D.C. Law 19-142 became effective on June 19, 2012.

§ 38-751.02. Definitions.

For the purposes of this subchapter, the term:

(1) "DC-BAS" means the DC Benchmark System.

(2) "DC-CAS" means the District of Columbia Comprehensive Assessment System examination.

(3) "Feeder school group" means one or more schools serving students in grades 4 through 9. Feeder school groups shall be selected by the Mayor and may consist of any of the following:

(A) An elementary school, middle school, and a high school in the same feeder pattern;

(B) An education campus and high school in the same feeder pattern; or

(C) One school that serves students in grades 4 through 9.

(4) "Low-performing school" means a public school or public charter school in which fewer than 40% of students performed proficient or higher on the 2011 DC-CAS.

(5) "Mid-high-performing school" means a public school or public charter school in which 40% or more of students performed proficient or higher on the 2011 DC-CAS.

(June 19, 2012, D.C. Law 19-142, § 102, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-751.03. Pilot early warning and support system.

(a)(1) There is established a pilot early warning and support system ("early warning and support system") to track how individual students in grades 4 through 9 in 4 feeder school groups are performing on certain indicators of high school and college readiness. The early warning and support system shall identify students who are at risk of leaving school prior to graduation and develop initiatives to support high school and college readiness and increase high school graduation rates. The initiatives may include:

(A) College and career awareness;

(B) Parent outreach and engagement;

(C) Tutoring and mentoring for struggling learners, including the use of technology-based programs;

(D) Transition programs for middle and high school (particularly grades 5 and 8);

(E) Individualized learning plans; and

(F) Data coaches.

(2) Two feeder school groups shall be comprised of mid-high-performing schools and 2 feeder school groups shall be comprised of low-performing schools.

(b) The data collected shall include for each student in grades 4 through 9 in a feeder school group:

(1) The results of all standardized assessments, including the DC-CAS and DC-BAS;

(2) Measures of behavior and attendance; and

(3) Performance measures for math and English courses, including, at a minimum, mid-year and end-of-course grades.

(c) The Mayor shall implement the early warning and support system in 4 feeder school groups and may give priority to schools in which high school and college readiness initiatives developed pursuant to subsection (a)(1) of this section are in place.

(d)(1) Schools within each feeder school group are required to collaborate with each other and with the Mayor's office to ensure alignment of data collection.

(2) Individual student data collected through the early warning and support system shall be shared with participating feeder school groups and summarized data shall be shared with the public.

(e) The participating feeder school groups shall have access to additional funding that shall support new and existing initiatives to increase high school and college readiness and to increase high school graduation rates.

(f) Funding shall be prioritized for low-performing schools.

(June 19, 2012, D.C. Law 19-142, § 103, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-751.04. Survey.

The Mayor shall survey a sample of schools to identify existing initiatives used to support high school and college readiness and increase graduation rates. Results of the survey shall be submitted to the Council within 90 days of June 19, 2012.

(June 19, 2012, D.C. Law 19-142, § 104, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-751.05. Report.

(a) The Mayor shall create a report that shall include:

(1) School-level data collected through the early warning and support system for each participating feeder school group;

(2) Recommendations highlighting best practices to improve high school and college readiness and increase high school graduation rates among all schools, including the feeder school groups; and

(3) A plan to expand the early warning and support system to all schools within 3 years of June 19, 2012.

(b) The report shall be submitted to the Council one year after implementation of this subchapter.

(June 19, 2012, D.C. Law 19-142, § 105, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

Subchapter II. Post-Secondary Preparation Plan.

§ 38-752.01. Short title.

This subchapter may be cited as the "Post-Secondary Preparation Plan Act of 2012".

(June 19, 2012, D.C. Law 19-142, § 201, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-752.02. Definitions.

For the purposes of this subchapter, the term:

(1) "Post-secondary institution" means an entity that awards an academic degree or professional certification, which may include a:

(A) University;
(B) College;
(C) Seminary;
(D) Vocational school;
(E) Trade school; or
(F) The military.

(2) "Public high school" means a public school or public charter school that provides instruction for students in the 9th through 12th grades.

(June 19, 2012, D.C. Law 19-142, § 202, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-752.03. Post-secondary preparation plan.

(a)(1) Beginning with the graduating class of 2014, the Mayor shall ensure that each public high school student applies to at least one post-secondary institution before graduation.

(2) The Mayor shall ensure that each public high school student participates in a program designed to provide students with information on applying to an appropriate post-secondary institution, including information on financial aid and other resources necessary to streamline a transition to a post-secondary institution. The program may include school-based and non-school-based resources.

(b) The Mayor shall issue a report that details the number of students that attend a post-secondary institution, including the number of students who attend each type, including:

(1) Universities;
(2) Colleges;
(3) Vocational schools; and
(4) Other post-secondary institutions.

(c) Beginning with the graduating class of 2014, the Mayor shall require that each student attending public high school takes the SAT or the American College Testing program before graduation.

(d) The Mayor may exempt a student from the requirements of subsections (a)(1) and (c) of this section, if the Mayor determines that it would constitute an undue hardship on the student.

(June 19, 2012, D.C. Law 19-142, § 203, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

Subchapter III. Highly Effective Teacher Incentive.

§ 38-753.01. Short title.

This subchapter may be cited as the "Highly Effective Teacher Incentive Act of 2012".

(June 19, 2012, D.C. Law 19-142, § 301, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-753.02. Definitions.

For the purposes of this subchapter, the term:

(1) "DCPS" means the District of Columbia Public Schools established by § 38-171. The term "DCPS" does not include public charter schools.

(2) "High-need school" means:

(A) A DCPS school that has:

(i) Been in operation for no fewer than 5 years;

(ii) A minimum of 200 students;

(iii) Forty percent or fewer of its students meeting proficiency on the District of Columbia Comprehensive Assessment System examination in both reading and math; and

(iv) Seventy-five percent or more of its students qualify for free or reduced-price lunch; or

(B) A public charter school that:

(i) Is a tier one or tier 2 school;

(ii) Has been in operation for no fewer than 5 years; and

(iii) Has a minimum of 200 students.

(3) "Highly effective teacher" means:

(A) A DCPS teacher who receives a rating of "highly effective" under the DCPS IMPACT evaluation system; or

(B) A public charter school teacher who receives a rating that meets the highly effective standard agreed upon by the Mayor and that public charter school.

(June 19, 2012, D.C. Law 19-142, § 302, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-753.03. Pilot incentive program.

(a)(1) There is established a pilot incentive program to encourage highly effective teachers to teach in high-need schools for the start of the 2013-2014 school year.

(2) The incentives shall include:

(A) A one-time bonus of $10,000;

(B) Homebuyer and other housing assistance, including:

(i) Access to subsidized rental housing units;

(ii) Forgivable loans for a down payment of up to 10% of the median home price in the District; and

(iii) Access to low-interest mortgage loans;

(C) An amount of up to $5,000 to be expended on tuition assistance, which may include reimbursement for specific courses that lead to certification in high-demand subject areas, such as math and science, and loan-repayment assistance for existing education loans; and

(D) An amount of up to $3,000 to be used as income tax credits.

(3) The incentives shall not exceed the maximum allowable amounts over the 3-year period of the pilot program.

(b)(1)(A) The pilot program shall consist of 4 high-need schools. At least one of the schools shall be a tier one or tier 2 public charter school.

(B) At least 3, but not more than 5, teachers shall be selected for each school of the 4 schools in the pilot program.

(2) The Mayor shall establish a plan to implement the pilot program. The plan shall be submitted to the Council for review within 90 days of June 19, 2012. The plan shall include:

(A) A process for teachers to apply to the program;

(B) A process for selecting qualified applicants, which shall include a requirement that a teacher commit to serving a minimum of 3 years at a high-need school; and

(C) Guidelines for selecting high-need schools, which shall include schools that have:

(i) A proficiency in both reading and math of 40% or below; and

(ii) At least 75% or more of students who qualify for free or reduced-price lunch; and

(D) Guidelines for selecting highly effective teachers.

(3) For DCPS, highly effective teachers shall be selected according to IMPACT standards. For public charter schools, the Mayor shall work with each public charter school to develop the criteria for selecting highly effective teachers.

(June 19, 2012, D.C. Law 19-142, § 303, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-753.04. Report.

The Mayor shall provide a report by August 30th of each year in which the pilot program is in operation, which shall include:

(1) The number of teachers committed to continuing the pilot program for the following year;

(2) Feedback from the participating teachers regarding implementation of the pilot program and the incentives;

(3) An assessment of the effectiveness of the pilot program; and

(4) Recommendations for improving the pilot program.

(June 19, 2012, D.C. Law 19-142, § 304, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-753.05. Sunset.

This subchapter shall expire 3 years from June 19, 2012.

(June 19, 2012, D.C. Law 19-142, § 305, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

Subchapter IV. Community Schools Incentive.

§ 38-754.01. Short title.

This subchapter may be cited as the "Community Schools Incentive Act of 2012".

(June 19, 2012, D.C. Law 19-142, § 401, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-754.02. Definitions.

For the purposes of this subchapter, the term:

(1) "Community partner" means a provider of one or more eligible services.

(2) "Community school" means a public and private partnership to coordinate educational, developmental, family, health, and after-school-care programs during school and non-school hours for students, families, and local communities at a public school or public charter school with the objectives of improving academic achievement, reducing absenteeism, building stronger relationships between students, parents, and communities, and improving the skills, capacity, and well-being of the surrounding community residents.

(3) "Eligible consortium" means a partnership established between a local education agency and one or more community partners for purposes of establishing, operating, and sustaining a community school.

(4) "Eligible services" means:

(A) Primary medical and dental care that will be available to students and community residents;

(B) Mental health prevention and treatment services that will be available to students and community residents;

(C) Academic-enrichment activities designed to promote a student's

cognitive development and provide opportunities to practice and apply academic skills;

(D) Programs designed to increase attendance, including reducing early chronic absenteeism rates;

(E) Youth development programs designed to promote young people's social, emotional, physical, and moral development, including arts, sports, physical fitness, youth leadership, community service, and service-learning opportunities;

(F) Early childhood education, including Head Start and Early Head Start programs;

(G) Programs designed to:

(i) Facilitate parental involvement in, and engagement with, their children's education, including parental activities that involve supporting, monitoring, and advocating for their children's education;

(ii) Promote parental leadership in the life of the school; and

(iii) Build parenting skills;

(H) School-age child-care services, including before-school and after-school services and full-day programming that operates during school holidays, summers, vacations, and weekends;

(I) Programs that provide assistance to students who have been truant, suspended, or expelled and that offer multiple pathways to high school graduation or General Educational Development completion;

(J) Youth and adult job-training services and career-counseling services;

(K) Nutrition-education services;

(L) Adult education, including instruction in English as a second language, adult literacy, computer literacy, financial literacy, and hard-skills training; or

(M) Programs that provide remedial education and enrichment activities.

(June 19, 2012, D.C. Law 19-142, § 402, 59 DCR 3642.)

Section references. — This section is referenced in § 38-754.03.

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-754.03. Administration of Community Schools Incentive Initiative.

(a) The Mayor shall establish and administer the multiyear Community Schools Incentive Initiative ("Incentive Initiative") to award multiyear grants to incentivize the establishment of no fewer than 5 new community schools within one year of June 19, 2012, with priority given to schools that have:

(1) A focus on mental health prevention and treatment services and adult education and training; and

(2) A student population of which at least 75% of the students qualify for free or reduced-price lunch.

(b) The Mayor shall promote and encourage the use of public school and public charter school facilities by community and neighborhood groups.

(c) Within 60 days of June 19, 2012, the Mayor shall convene a Community Schools Advisory Committee that shall consist of:

(1) The Chancellor of the District of Columbia Public Schools, or designee;

(2) The Director of the Department of Parks and Recreation, or designee;

(3) The Director of the Department of Health, or designee;

(4) The Director of the Department of Employment Services, or designee;

(5) The President of the State Board of Education, or designee;

(6) The President of the University of the District of Columbia, or designee;

(7) The President of the University of the District of Columbia Community College, or designee;

(8) The Deputy Mayor for Education, or designee;

(9) Representatives from at least 4 community-based organizations;

(10) Representatives from at least 4 philanthropic or business organizations;

(11) The Director of the Public Charter School Board, or designee; and

(12) The directors of 2 public charter schools.

(d) The Community Schools Advisory Committee shall:

(1) Advise the Mayor on the development of the Incentive Initiative, including the development of a results-based framework and accompanying performance indicators with which to measure the success of the Incentive Initiative;

(2) Participate in the selection process for Incentive Initiative grantees;

(3) Develop recommendations on how all public schools can become centers of their communities by opening school facilities for nonprofit and community use;

(4) Identify potential funding sources for the provision of eligible services within the Incentive Initiative; and

(5) Develop yearly measurable performance goals to assess:

(A) How to increase the percentage of families and students receiving services for each year of the Incentive Initiative;

(B) The outcomes for students and families, particularly student academic achievement; and

(C) The number of public schools and public charter schools that have established formal relationships with community and neighborhood groups to use school facilities.

(e) Within 180 days of June 19, 2012, the Mayor shall establish a process for awarding grants of no more than $200,000 a year to successful eligible consortiums and shall require that each application for an Incentive Initiative grant include:

(1) An assessment of the local school community and the neighborhood's needs and assets;

(2) A description of the proposed eligible consortium, including the type and number of community partners, as defined in § 38-754.02, and how the eligible consortium shall address the needs and build upon the assets of the community that the eligible consortium will serve;

(3) A proposed budget and narrative description of the proposed use of grant funds, which budget shall reflect a core concept of service coordination and integration and the narrative describe how the eligible consortium shall provide at least 4 additional eligible services that did not exist before the establishment of the eligible consortium;

(4) The identification of operational funding for eligible services and community partners; and

(5) A plan for the development of a community advisory board to include members of school leadership, school faculty, parents of school students, community leaders, community-based organizations, and other community members.

(f) The Mayor shall:

(1) Conduct periodic evaluations of the progress achieved with funds allocated under a grant, consistent with the purposes of this section;

(2) Use the evaluations to refine and improve activities conducted with the grant and the performance measures for the activities;

(3) Make the results of the evaluations publicly available, including providing public notice of the availability; and

(4) Identify best practices and lessons learned for the purpose of informing the District-wide community school policy.

(June 19, 2012, D.C. Law 19-142, § 403, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-754.04. Establishment of Community School Fund.

(a) There is established as a nonlapsing fund the Community Schools Fund ("Fund"). All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(b)(1) The Fund shall be used solely for the purposes of supporting schools designated as community schools.

(2) No more than 10% of the Fund shall be used to fund administrative costs associated with the operations of the Mayor; and

(3) The Fund shall be used to fund the planning and implementation of the Incentive Initiative grant program.

(c) The following monies shall be deposited into the Fund:

(1) Federal funds and grants;

(2) Local funds;

(3) Gifts; and

(4) Payments from public or private sources.

(June 19, 2012, D.C. Law 19-142, § 404, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

Subchapter V. Early Childhood Education.

§ 38-755.01. Short title.

This subchapter may be cited as the "Early Childhood Education Act of 2012".

(June 19, 2012, D.C. Law 19-142, § 501, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-755.02. Definitions.

For the purposes of this subchapter, the term:

(1) "Chancellor" means the chief executive officer of the District of Columbia Public Schools appointed pursuant to § 38-174.

(2) "DCPS" means the District of Columbia Public Schools established by § 38-171.

(June 19, 2012, D.C. Law 19-142, § 502, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-755.03. Requirements and goals.

(a) To meet the academic achievement requirements and goals set forth in this section, the Chancellor shall:

(1) Establish guidelines for academic achievement;

(2) Develop and implement curricula; and

(3) Ensure that DCPS staff and administrators are trained to implement the curricula established pursuant to paragraph (2) of this subsection to meet the goals set forth in subsection (b) of this section.

(b) The Chancellor shall be responsible for:

(1) Academic achievement goals, which shall include the reasonable expectation that all children:

(A) Three or 4 years of age in DCPS shall be properly prepared for entry and achievement in the DCPS kindergarten program; and

(B) In the 3rd grade, upon being promoted to the 4th grade, shall be able to read independently and to understand the fundamental of mathematics so that they can:

(i) Add;

(ii) Subtract;

(iii) Multiply; and

(iv) Divide; and

(2) Readiness goals, which shall include readiness evaluations for all children:

(A) Three or 4 years of age in DCPS, which shall be designed and implemented to measure the ability of a student entering the DCPS kindergarten program and to determine his or her readiness for entry and achievement in DCPS; and

(B) In kindergarten through 3rd grade in DCPS, which shall be designed and implemented to measure the reading and mathematical ability of a student entering a grade kindergarten through 3rd grade to determine the student's readiness for entry and achievement in the relevant grade level.

(June 19, 2012, D.C. Law 19-142, § 503, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

§ 38-755.04. Tracking and monitoring.

The Chancellor shall:

(1) Track and monitor the preparedness of:

(A) The early childhood population of children 3 and 4 years of age to determine the children's readiness for entry and achievement in DCPS; and

(B) Children in kindergarten through 3rd grade in DCPS to determine their readiness for entry and achievement in the 4th grade;

(2) Develop a plan to address:

(A) The early childhood population of children 3 and 4 years of age who are not ready for entry and achievement in DCPS; and

(B) Children in kindergarten through 3rd grade in DCPS who are not ready for entry and achievement in the 4th grade;

(3) Conduct readiness evaluations annually to ascertain whether:

(A) Children 3 and 4 years of age are prepared for kindergarten; and

(B) Children in the 3rd grade are prepared to be promoted to the 4th grade; and

(4) Submit to the Council and the Mayor, by October 1 of each year:

(A) The results of the readiness evaluations required by paragraph (3) of this section; and

(B) A DCPS annual report for the preceding academic year delineating the progress and readiness of all students.

(June 19, 2012, D.C. Law 19-142, § 504, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

Subchapter VI. Rulemaking.

§ 38-756.01. Rules.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this chapter.

(b) Each local education agency may advise the Mayor with respect to all proposed matters or rules issued pursuant to this chapter.

(June 19, 2012, D.C. Law 19-142, § 601, 59 DCR 3642.)

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

Subchapter VII. Applicability of Chapter.

§ 38-757.01. Applicability.

(a) This chapter shall apply through September 30, 2013.

(b) Beginning on October 1, 2013, this chapter shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

(June 19, 2012, D.C. Law 19-142, § 701, 59 DCR 3642; Sept. 20, 2012, D.C. Law 19-168, § 7009, 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added the subsection (a) designation; substituted "through September 30, 2013" for "upon the inclusion of its fiscal effect in an approved budget and financial plan" in (a); and added (b).

Emergency legislation. — For temporary (90 day) amendment of section 701 of D.C. Law 19-345, see § 7009 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 7009 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-142. — For history of Law 19-142, see notes under § 38-751.01.

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Editor's notes. — Section 7016 of D.C. Law 19-168 provided that Sections 7001, 7004, 7007, 7009, 7011, and 7015 of the act shall apply as of June 19, 2012.

CHAPTER 7C. TESTING INTEGRITY.

Sec.
38-771.01. Definitions.
38-771.02. LEA administration of Districtwide assessments.
38-771.03. Authorized personnel; responsibilities.
38-771.04. Test integrity; sanctions.
38-771.05. Right to administrative review.
38-771.06. Rulemaking.
38-771.07. Due process.

§ 38-771.01. Definitions.

For the purposes of this chapter, the term:

(1) "Authorized personnel" means an individual who has access to Districtwide assessment materials or is directly involved in the administration of a Districtwide assessment.

(2) "Districtwide assessments" shall have the same meaning as provided in § 38-1800.02(13).

(3) "IEP" means a student's individualized education program.

(4) "ELL" means English language learner.

(5) "Local education agency" or "LEA" means the District of Columbia Public Schools system or any individual or group of public charter schools operating under a single charter.

(6) "Test monitor" means an individual designated by a local education agency to be responsible for testing integrity and security at each individual school subject to the LEA's control during the administration of a Districtwide assessment.

(7) "OSSE" means the Office of the State Superintendent of Education.

(8) "Test integrity coordinator" means an individual designated by a LEA to be responsible for testing integrity and security for the LEA in its entirety during the administration of a Districtwide assessment.

(9) "Testing integrity and security agreement" means an agreement developed by OSSE that:

(A) Sets forth requirements for ensuring integrity of Districtwide assessments pursuant to District law and regulation; and

(B) Requires the signatory to acknowledge that he or she understands that knowingly and willingly violating a District law, regulation, or a test security plan could result in civil liability, including the loss of an OSSE granted certification or license.

(Oct. 17, 2013, D.C. Law 20-27, § 101, 60 DCR 11120.)

Section references. — This section is referenced in § 38-2602.

Legislative history of Law 20-27. — Law 20-27, the "Testing Integrity Act of 2013," was introduced in Council and assigned Bill No. 20-109. The Bill was adopted on first and second readings on June 4, 2013, and June 26, 2013, respectively. Signed by the Mayor on July 23, 2013, it was assigned Act No. 20-120 and transmitted to Congress for its review. D.C. Law 20-27 became effective on October 17, 2013.

§ 38-771.02. LEA administration of Districtwide assessments.

(a) A LEA responsible for administering a Districtwide assessment shall meet the requirements of § 38-2602(b)(20).

(b) In addition to the requirements of subsection (a) of this section, a LEA shall:

(1) File the test security plan required by § 38-2602(b)(20) with OSSE at least 90 days before the administration of a Districtwide assessment;

(2) Designate a test integrity coordinator and test monitors;

(3) Immediately report any breach of security, loss of materials, failure to

account for materials, or any other deviation from the test security plan to OSSE;

(4) Investigate, document, and report to OSSE any findings and recommendations for the remediation of an allegation of the failure of the test security plan or other testing integrity and security protocol;

(5) Within 10 days after the conclusion of a Districtwide assessment, obtain signed, under penalty of law, affidavits from the LEA's test integrity coordinator and each of the LEA's test monitors attesting that, to the best of his or her knowledge or belief, the LEA complied with all applicable laws, regulations, and policies, including the test security plan; and

(6) Within 15 days after the conclusion of a Districtwide assessment, file with OSSE:

(A) The affidavits required by paragraph (5) of this subsection; and

(B) Copies of all testing integrity and security agreements required by § 38-771.03(a).

(c) No employee of a LEA shall retaliate against any other employee, parent, or student solely because that individual reports or participates in an investigation of a potential failure of the test security plan or other testing integrity and security policy or protocol.

(Oct. 17, 2013, D.C. Law 20-27, § 102, 60 DCR 11120.)

Legislative history of Law 20-27. — See note to § 38-771.01.

§ 38-771.03. Authorized personnel; responsibilities.

(a) Authorized personnel shall:

(1) Before the administration of a Districtwide assessment:

(A) Complete testing integrity training, as developed by OSSE; and

(B) Sign a testing integrity and security agreement, as developed and distributed by OSSE;

(2) Immediately report any breach of testing security to the school's test monitor, the LEA's test integrity coordinator, or OSSE;

(3) Cooperate with OSSE in any investigation concerning the administration of a Districtwide assessment;

(4) Except as provided in subsection (b) of this section, be prohibited from:

(A) Photocopying, or in any way reproducing, or disclosing secure test items or other materials related to Districtwide assessments;

(B) Reviewing, reading, or looking at test items or student responses before, during, or after administering the Districtwide assessment, unless specifically permitted in the test administrator's manual;

(C) Assisting students in any way with answers to test questions using verbal or nonverbal cues before, during, or after administering the assessment;

(D) Altering student responses in any manner;

(E) Altering the test procedures stated in the formal instructions accompanying the Districtwide assessments;

(F) Allowing students to use notes, references, or other aids, unless the test administrator's manual specifically allows;

(G) Having in one's personal possession secure test materials except during the scheduled testing date;

(H) Allowing students to view or practice secure test items before or after the scheduled testing time;

(I) Making or having in one's possession answer keys before the administration of that Districtwide assessment; except, that it shall not be prohibited to have an answer key for a Districtwide assessment that has already been administered;

(J) Leaving secure test materials in a non-secure location or unattended by authorized personnel; and

(K) Using cell phones, unapproved electronics, or computer devices during the administration of a Districtwide assessment.

(b) The failure to comply with the prohibitions set forth in subsection (a)(4) of this section shall not be considered a violation of a test security plan if the action is necessary to provide for an accommodation that is explicitly identified in a student's IEP or an approved accommodation plan for a ELL student; provided, that any accommodation shall be limited to the eligible student or students.

(Oct. 17, 2013, D.C. Law 20-27, § 103, 60 DCR 11120.)

Section references. — This section is referenced in § 38-771.02.

Legislative history of Law 20-27. — See note to § 38-771.01.

§ 38-771.04. Test integrity; sanctions.

(a) A LEA, or school subject to the LEA's control, that is determined by OSSE to have violated this chapter, regulations issued pursuant to this chapter, or a test security plan shall be subject to sanctions, which shall include:

(1) The payment of any expenses incurred by OSSE as a result of the violation, including the costs associated with developing, in whole or in part, a new assessment;

(2) An administrative fine of not more than $10,000 for each violation; and

(3) The invalidation of test scores.

(b) A person who knowingly and willfully violates, assists in the violation of, solicits another to violate or assist in the violation of the provisions of this chapter, regulations issued pursuant to this chapter, or test security plan, or fails to report such a violation, shall be subject to sanctions, which shall include:

(1) Denial, suspension, revocation, or cancellation of, or restrictions on the issuance or renewal of a teaching or administrative credential or teaching certificate issued by OSSE, or both, for a period of not less than one year;

(2) Payment of expenses incurred by the LEA or OSSE as a result of the violation; or

(3) An administrative fine, not to exceed $1,000 for each violation.

(c) When determining sanctions, OSSE may take into account:

(1) The seriousness of the violation;

(2) The extent of the violation;

(3) The role the individual played in the violation;
(4) The LEA leadership's involvement;
(5) How and when the violation was reported to OSSE; and
(6) The actions taken by the LEA since the violation was reported to OSSE.

(Oct. 17, 2013, D.C. Law 20-27, § 104, 60 DCR 11120.)

Legislative history of Law 20-27. — See note to § 38-771.01.

§ 38-771.05. Right to administrative review.

Any person aggrieved by a final decision or order of OSSE imposing sanctions following a determination by OSSE that a violation of this chapter has occurred may obtain a review of the final decision or order in accordance with regulations issued by the Mayor pursuant to § 38-771.06 or the process set forth in § 38-771.07, whichever is applicable; provided, that if the aggrieved party is a member of a collective bargaining unit, he or she may choose between the negotiated grievance process set forth in a collective bargaining agreement and the grievance process set forth in § 38-771.07 or in regulations issued by the Mayor pursuant to § 38-771.06, whichever is applicable.

(Oct. 17, 2013, D.C. Law 20-27, § 105, 60 DCR 11120.)

Legislative history of Law 20-27. — See note to § 38-771.01.

§ 38-771.06. Rulemaking.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement this chapter.
(b) The proposed rules shall be submitted to the Council for a 45-day period of review. If the Council does not approve or disapprove the proposed rules, by resolution, within the 45- day review period, the proposed rules shall be deemed approved.

(Oct. 17, 2013, D.C. Law 20-27, § 106, 60 DCR 11120.)

Section references. — This section is referenced in § 38-771.05 and § 38-771.07.

Legislative history of Law 20-27. — See note to § 38-771.01.

§ 38-771.07. Due process.

(a) Until rules are issued pursuant to § 38-771.06, any party aggrieved by a final decision or order of OSSE imposing sanctions following a determination by OSSE that a violation of this chapter has occurred may obtain a review of the final decision or order by filing a written notice of appeal to the Mayor within 10 calendar days from the date on which OSSE imposed the sanction being contested.
(b) The written notice of appeal shall contain the following information:
(1) The type and the effective date of the sanction imposed;

(2) The name, address, and telephone number of the aggrieved party or the aggrieved party's representative, if any;

(3) A copy of OSSE's notice of final decision;

(4) A statement as to whether the aggrieved party or anyone acting on his or her behalf has filed an appeal under any negotiated review procedure pursuant to a collective bargaining agreement, or has filed a complaint with any other agency regarding this matter;

(5) The identity of the collective bargaining unit, if any, of which the aggrieved party is a member;

(6) A statement as to whether the aggrieved party requests a hearing;

(7) A concise statement of the facts giving rise to the appeal;

(8) An explanation as to why the aggrieved party believes OSSE's action was unwarranted and any supporting documentation;

(9) A statement of the specific relief the aggrieved party is requesting; and

(10) The signature of the aggrieved party and his or her representative, if any.

(c) If a hearing is requested, the Mayor shall hold a hearing within 30 calendar days after the receipt of the notice of appeal and hearing request and shall issue a written ruling no later than 10 calendar days after the hearing. If no hearing is requested, the Mayor shall issue a written ruling within 30 days of receipt of the notice of appeal.

(d) Appeals filed pursuant to this section, and any hearings held, shall be administered in accordance with § 2-501 et seq.

(e) For the purposes of this section, a notice of appeal is considered received on the date it was postmarked.

(Oct. 17, 2013, D.C. Law 20-27, § 107, 60 DCR 11120.)

Section references. — This section is referenced in § 38-771.05.

Legislative history of Law 20-27. — See note to § 38-771.01.

CHAPTER 7D. STUDENT PROMOTION.

§ 38-781.01. Definitions.

For the purposes of this chapter, the term:

(1) "Chancellor" means the chief executive officer of DCPS, as established by § 38-174.

(2) "DCMR" means the District of Columbia Municipal Regulations.

(3) "DCPS" means the District of Columbia Public Schools agency established by § 38-171.

(4) "Parent" means a natural parent, adoptive parent, step-parent, or any person who has legal custody of a student by court order.

(5) "Passing grade" means:

(A) For pre-kindergarten through 5th grade, achieving proficient or advanced grades in a subject or content area; and

(B) For 6th through 12th grade, receiving credit for a course.

(6) "Principal" means a principal at a DCPS school.

(7) "Promoted" describes students in pre-kindergarten through 11th grade who are advanced to the next grade level.

(8) "Promotion" means advancement to the next grade level for students in pre-kindergarten through grade 11.

(9) "Retained" describes students who are required to repeat their current grade level due to their failure to meet promotion criteria.

(10) "Retention" means repetition of a student's current school grade level due to the student's failure to meet promotion criteria.

(11) "School year" means the school term beginning in August of one year and ending in the following year. The term "school year" does not include summer school.

(12) "Subject" and "content area" mean a particular course of study, such as mathematics, English language arts, writing, or literature.

(Feb. 22, 2014, D.C. Law 20-84, § 202, 61 DCR 178.)

Legislative history of Law 20-84. — Law 20-84, the "Focused Student Achievement Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-311. The Bill was adopted on first and second readings on November 5, 2013, and December 3, 2013, respectively. Signed by the Mayor on December 27, 2013, it was assigned Act No. 20-254 and transmitted to Congress for its review. D.C. Law 20-84 became effective on February 22, 2014.

§ 38-781.02. Student retention and promotion.

(a) In accordance with the requirements of this chapter or as set forth in the DCMR, a DCPS student can be retained at any grade level.

(b)(1) Decisions regarding the promotion and retention of a DCPS student enrolled in pre-kindergarten through 8th grade shall be made by the student's principal based upon the recommendation of the student's teacher and in consideration of the promotion requirements set forth in the DCMR.

(2) A DCPS student enrolled in 9th grade through 11th grade shall be promoted if the student meets the promotion requirements as set forth in the DCMR.

(c) Notwithstanding subsection (b) of this section:

(1) A principal may:

(A) Retain any student who does not meet the promotion requirements set forth in the DCMR; and

(B) Promote a student who has failed to meet the promotion requirements set forth in the DCMR; provided, that the principal submits a written explanation justifying the decision to the Chancellor before the promotion is made; and

(2) No student with more than 30 unexcused absences in a school year shall be promoted unless the principal submits a written explanation justifying the decision to the Chancellor before the promotion is made.

(d) The Chancellor may develop separate promotion criteria for students who are enrolled in an English language learner program or receive special education services.

(Feb. 22, 2014, D.C. Law 20-84, § 203, 61 DCR 178.)

Legislative history of Law 20-84. — See note to § 38-781.01.

§ 38-781.03. Reporting requirements.

Within 30 calendar days after the end of the school year, the Chancellor shall submit to the Office of the State Superintendent of Education the name of each:

(1) Student who was identified as at risk of retention pursuant to 5-E DCMR § 2200.9 and a description of intervention services provided to the student; and

(2) Retained student, the underlying reason for the retention decision, and whether the student was identified as at risk of retention pursuant to the requirements of 5-E DCMR § 2200.9.

(Feb. 22, 2014, D.C. Law 20-84, § 204, 61 DCR 178.)

Legislative history of Law 20-84. — See note to § 38-781.01.

§ 38-781.04. Review; appeals.

(a) The Chancellor shall establish procedures to review retention decisions made pursuant to this chapter or as set forth in the DCMR and may review all retention decisions made pursuant to the procedures.

(b) The Chancellor shall establish a process, including deadlines, to allow the parent of a student to be retained for failure to meet the promotion criteria specified in the DCMR to appeal the retention decision on the grounds that the student has met the promotion criteria.

(Feb. 22, 2014, D.C. Law 20-84, § 205, 61 DCR 178.)

Legislative history of Law 20-84. — See note to § 38-781.01.

§ 38-781.05. Summer school.

(a)(1) Each student retained for the failure to meet the promotion criteria specified in the DCMR shall attend the summer school session immediately following the school year in which the student was retained, unless specifically excused by the principal or the Chancellor.

(2) A student who attends summer school pursuant to this section shall be reevaluated for promotion if the student:

(A) Does not have more than 3 unexcused absences from summer school; and

(B) Receives a passing grade in the subject or content area for which the student did not achieve a passing grade during the school year.

(3) A student who meets the promotion criteria set forth in the DCMR after the completion of summer school shall be promoted.

(b) In addition to those students identified to attend summer school pursuant to subsection (a) of this section, each principal shall provide to the Chancellor before the summer school registration deadline a list of the names of all students who the principal believes could benefit from summer school.

(Feb. 22, 2014, D.C. Law 20-84, § 206, 61 DCR 178.)

Legislative history of Law 20-84. — See note to § 38-781.01.

§ 38-781.06. Rules.

The Chancellor, pursuant to § 38-174(c)(5), shall issue rules to implement the provisions of this chapter.

(Feb. 22, 2014, D.C. Law 20-84, § 207, 61 DCR 178.)

Legislative history of Law 20-84. — See note to § 38-781.01.

CHAPTER 8A. HEALTHY SCHOOLS.

Subchapter I. Definitions; Establishment of Healthy Schools Fund.

§ 38-821.02. Establishment of the Healthy Schools Fund.

(a) There is established as a nonlapsing fund the Healthy Schools Fund ("Fund"), which shall be used solely as provided in subsection (c) of this section and administered by the Office of the State Superintendent of Education. The

Fund shall be funded by annual appropriations, which shall be deposited into the Fund.

(b) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(c) The funds in the Fund shall be used as follows:

(1) To provide additional funding for healthy school meals, the Office of the State Superintendent of Education shall reimburse public schools, public charter schools, participating private schools, and organizations participating in the Summer Food Service Program as follows:

(A) Ten cents for each breakfast meal served that meets the requirements of §§ 38-822.02 and 38-822.03; and

(B) Ten cents for each lunch meal served that meets the requirements of §§ 38-822.02 and 38-822.03.

(2) Repealed.

(3) To eliminate the reduced-price copayment under § 38-822.03(b)(1), the Office of the State Superintendent of Education shall reimburse public schools, public charter schools, and participating private schools 40 cents for each lunch meal that meets the requirements of §§ 38-822.02 and 38-822.03 and is served to students who qualify for reduced-price meals.

(4) To provide resources to implement the breakfast-in-the-classroom program under § 38-822.03(a)(2), the Office of the State Superintendent of Education shall provide a one- time subsidy of $7 per student to new public schools, new public charter schools, and new private schools that have not previously received the funds and that participate in the National School Lunch Program, in which more than 40% of students qualify for free or reduced-price meals.

(5)(A) To encourage local foods to be served in schools, the Office of the State Superintendent of Education shall provide an additional 5 cents per day reimbursement to public schools, public charter schools, and participating private schools when at least one component of a reimbursable breakfast or lunch meal is comprised entirely of locally grown and unprocessed foods; provided, that the schools report the name and address of the farms where the locally grown foods were grown to the Office of the State Superintendent of Education.

(B) For the purposes of this paragraph, the term "locally grown and unprocessed foods" shall not include milk.

(6) To increase physical activity in schools, the Office of the State Superintendent of Education shall make grants available, subject to the availability of funds in the Fund, through a competitive process to public schools and public charter schools; provided, that schools shall meet the requirements of § 38-824.02 and seek to increase the amount of physical activity in which their students engage.

(7) To support school gardens, the Office of the State Superintendent of Education shall make grants available, subject to the availability of funds in

the Fund, through a competitive process to public schools, public charter schools, and other organizations.

(d) The Office of the State Superintendent of Education may, by rule, increase the amounts, as set forth in subsection (c) of this section, to further improve the quality and nutrition of school meals.

(e) The Office of the State Superintendent of Education may withhold local funds provided by subsection (c) of this section from public schools and public charter schools that do not meet any or all of the requirements of §§ 38-822.02, 38-822.03, 38-822.05, and 38-822.06.

(f) Beginning on October 1, 2011, an amount of $4,266,000 from the revenues derived from the collection of the tax imposed upon all vendors by § 47-2002 shall be deposited annually into the Fund.

(g) All excess monies remaining in the Fund at the end of a fiscal year shall be administered by the Office of the State Superintendent of Education for the purposes set forth in subsection (c)(6) and (7) of this section, and to further improve health, wellness, and nutrition in schools.

(July 27, 2010, D.C. Law 18-209, § 102, 57 DCR 4779; Apr. 8, 2011, D.C. Law 18-370, § 412, 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 4012, 58 DCR 6226; Oct. 20, 2011, D.C. Law 19-37, § 2(b), 58 DCR 6841; Sept. 20, 2012, D.C. Law 19-168, § 4062(a), 59 DCR 8025.)

Section references. — This section is referenced in § 38-821.01.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added "and organizations participating in the Summer Food Service Program" in the introductory language of (c)(1); added "that meets the requirements of §§ 38-822.02 and 38-822.03 and is" in (c)(3); in (c)(4), substituted "§ 38-822.03(a)(2)" for "§ 38-822.03(a)(2), for the 2010-2011 school year," added "a onetime subsidy of," and substituted "new public schools, new public charter schools, and new private schools that have not previously received the funds and that participate" for "public schools and public charter schools participating"; added "any or all of" in (e); and added "and to further improve health, wellness, and nutrition in schools" in (g).

Emergency legislation.

For temporary (90 day) amendment of section, see § 4062(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

Subchapter II. School Nutrition.

§ 38-822.02. Nutritional standards for school meals.

(a) All breakfast, lunch, after-school snacks and suppers, and summer meals served to students in public schools, public charter schools, and participating private schools or by organizations participating in the Afterschool Meal Program or the Summer Food Service Program shall meet or exceed the federal nutritional standards set forth in:

(1) The Child Nutrition Act of 1996, approved October 11, 1996 (80 Stat. 885; 42 U.S.C. § 1771 et seq.);

(2) The Richard B. Russell National School Lunch Act, approved June 4, 1946 (60 Stat. 230; 42 U.S.C. § 1751 et seq.);

(3) 7 C.F.R. Parts 210, 215, 220, 225, and 226; and

(4) Other applicable federal law.

(b) In addition to the requirements of subsection (a) of this section, breakfast, lunch, after-school snacks and suppers, and summer meals served to students in public schools, public charter schools, and participating private schools or by organizations participating in the Afterschool Meal Program or the Summer Food Service Program shall meet or exceed:

(1) The following nutritional requirements per serving:

(A) Saturated fat: Fewer than 10% of total calories;

(B) Trans fat: Zero grams; and

(C)(i) Sodium:

(I) For breakfast meals:

(aa) Less than 430 milligrams for Grades Kindergarten through 5;

(bb) Less than 470 milligrams for Grades 6 through 8; and

(cc) Less than 500 milligrams for Grades 9 through 12; and

(II) For lunch meals:

(aa) Less than 640 milligrams for Grades Kindergarten through 5;

(bb) Less than 710 milligrams for Grades 6 through 8; and

(cc) Less than 740 milligrams for Grades 9 through 12.

(ii) The requirements of this subparagraph shall not apply until July 1, 2022; provided, that public schools, public charter schools, and participating private schools shall gradually reduce the amount of sodium served in school meals; and

(2) The serving requirements of the United State Department of Agriculture's HealthierUS School Challenge program at the Gold Award Level for vegetables, fruits, whole grains, milk, and other foods served in school meals, as may be revised from time to time, notwithstanding any termination of the program.

(c) The Office of the State Superintendent of Education may adopt standards that exceed the requirements of this section.

(July 27, 2010, D.C. Law 18-209, § 202, 57 DCR 4779; Oct. 20, 2011, D.C. Law 19-37, § 2(d), 58 DCR 6841; Sept. 20, 2012, D.C. Law 19-168, § 4062(b), 59 DCR 8025.)

Section references. — This section is referenced in § 38-821.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "July 1, 2022" for "August 1, 2020" in (b)(1)(C)(ii).

Emergency legislation.

For temporary (90 day) amendment of section, see § 4062(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

§ 38-822.03. Additional requirements for public school meals.

(a)(1) Public schools, public charter schools, and participating private schools shall offer free breakfast to all students.

(2) If more than 40% of the students at a school qualify for free or reduced-price meals:

(A) A public elementary school, public charter elementary school, and participating private elementary school shall offer breakfast in the classroom each day;

(B) A public middle and high school, public charter middle and high school, and participating private middle and high school shall offer alternative serving models, such as breakfast in the classroom or grab-and-go carts, in one or more locations with high student traffic, other than the cafeteria, each day to increase breakfast participation; and

(C) The requirements of this paragraph shall not apply to a public school or a public charter school in which the school's current breakfast participation rate, without breakfast-in-the-classroom, exceeds 75% of its average daily attendance.

(b) Public schools, public charter schools, and participating private schools shall:

(1) Not charge students for meals if the students qualify for reduced-price meals;

(2) Provide meals that meet the dietary needs of children with diagnosed medical conditions as required by a physician;

(3) Solicit input from students, faculty, and parents, through taste tests, comment boxes, surveys, a student nutrition advisory council, or other means, regarding nutritious meals that appeal to students;

(4) Promote healthy eating to students, faculty, staff, and parents;

(5) Provide at least 30 minutes for students to eat lunch and sufficient time during the lunch period for every student to pass through the food service line; and

(6) Participate in federal nutritional and commodity foods programs whenever possible.

(c) Public schools, public charter schools, and participating private schools shall make cold, filtered water available free to students, through water fountains or other means, when meals are served to students in public schools, public charter schools, and participating private schools.

(July 27, 2010, D.C. Law 18-209, § 203, 57 DCR 4779; Oct. 20, 2011, D.C. Law 19-37, § 2(e), 58 DCR 6841; Sept. 20, 2012, D.C. Law 19-168, § 4062(c), 59 DCR 8025.)

Section references. — This section is referenced in § 38-821.02.

Effect of amendments.
The 2012 amendment by D.C. Law 19-168

substituted "shall make" for "are encouraged to make" in (c).

Emergency legislation.

For temporary (90 day) amendment of section, see § 4062(c) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(c) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

§ 38-822.04. Central kitchen.

(a) The District of Columbia Public Schools shall establish a central facility in the District to:

(1) Prepare, process, grow, and store healthy and nutritious foods for schools and nonprofit organizations;

(2) Support nutrition education programs; and

(3) Provide job-training programs for students and District residents.

(b) The District of Columbia Public Schools shall provide reasonable access to charter schools that wish to use the facility.

(c) The Department of General Services shall assist the District of Columbia Public Schools in selecting real property for the facility and the Office of Public Education Facilities Modernization shall convert the real property into the facility.

(d) On or before December 31 of each year until the project is completed, the District of Columbia Public Schools, in consultation with the Department of General Services, shall issue a report to the Mayor, the Council, and the Healthy Schools and Youth Commission documenting progress on the development of the central kitchen.

(July 27, 2010, D.C. Law 18-209, § 204, 57 DCR 4779; Oct. 20, 2011, D.C. Law 19-37, § 2(f), 58 DCR 6841; Sept. 20, 2012, D.C. Law 19-168, § 4062(d), 59 DCR 8025.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "Department of General Services" for "Department of Real Estate Services" in (c).

Emergency legislation.

For temporary (90 day) amendment of section, see § 4062(d) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(d) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

§ 38-822.05. Public disclosure.

(a) Food service providers shall provide the following information to public schools, public charter schools, and participating private schools:

(1) The menu for each breakfast and lunch meal served;

(2) The nutritional content of each menu item;

(3) The ingredients for each menu item if requested by parents and legal guardians; and

(4) The location where fruits and vegetables served in schools are grown and processed and whether growers are engaged in sustainable agriculture practices.

(b)(1) Public schools, public charter schools, and participating private schools shall provide the information provided to them under subsection (a) of this section:

(A) In the school's office;

(B) Online, if the school has a website; and

(C) To parents and legal guardians upon request

(2) Public schools, public charter schools, and participating private schools shall inform families that vegetarian food options and milk alternatives are available upon request.

(c) This section shall apply as of January 1, 2012.

(July 27, 2010, D.C. Law 18-209, § 205, 57 DCR 4779; Oct. 20, 2011, D.C. Law 19-37, § 2(g), 58 DCR 6841; Sept. 20, 2012, D.C. Law 19-168, § 4062(e), 59 DCR 8025.)

Section references. — This section is referenced in § 38-821.02 and § 38-826.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added "if requested by parents and legal guardians" in (a)(3); substituted "shall provide" for "shall post" in the introductory language of (b)(1); added the comma following "Online" in (b)(1)(B); added (b)(1)(C); and made related changes.

Emergency legislation.

For temporary (90 day) amendment of section, see § 4062(e) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(e) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

§ 38-822.06. Healthy vending, fundraising, and prizes in public schools.

(a) Except as provided by subsection (b) of this section, all beverages and snack foods provided by or sold in public schools, public charter schools, and participating private schools or provided by organizations participating in the Afterschool Meal Program, whether through vending machines, fundraisers, snacks, after-school meals, or other means, shall meet the requirements of the United States Department of Agriculture's HealthierUS School Challenge program at the Gold Award Level for competitive foods, as may be revised from time to time and notwithstanding any termination of the HealthierUS School Challenge program.

(b) The requirements of subsection (a) of this section shall not apply to:

(1) Food and drinks available only to faculty and staff members; provided, that school employees shall be encouraged to model healthy eating;

(2) Food provided at no cost by parents;

(3) Food sold or provided at official after-school events;

(4) Adult education programs; and

(5) Food not consumed or marketed to students.

(c) The Office of the State Superintendent of Education may adopt stan-

dards that exceed the requirements set forth in subsections (a) and (b) of this section.

(d) Foods and beverages sold in public school, public charter school, and participating private schools stores shall meet the requirements of subsection (a) of this section.

(e) Public schools, public charter school, and participating private schools shall not permit third parties, other than school-related organizations and school meal service providers, to sell foods or beverages of any type to students on school property from 90 minutes before the school day begins until 90 minutes after the school day ends.

(f) Foods and beverages that do not meet the nutritional requirements of subsection (a) of this section shall not be:

(1) Used as incentives, prizes, or awards in public schools or public charter schools; or

(2) Advertised or marketed in public schools and public charter schools through posters, signs, book covers, scoreboards, supplies, equipment, or other means.

(g) After first issuing a warning, the Office of the State Superintendent of Education may impose a penalty, not to exceed $500 per day paid to the Healthy Schools Fund, on public schools and public charter schools that violate this section, subject to the right to a hearing requested within 10 days after the notice of imposition of the penalty is sent.

(July 27, 2010, D.C. Law 18-209, § 206, 57 DCR 4779; Oct. 20, 2011, D.C. Law 19-37, § 2(h), 58 DCR 6841; Sept. 20, 2012, D.C. Law 19-168, § 4062(f), 59 DCR 8025.)

Section references. — This section is referenced in § 38-821.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (b)(5); and made related changes.

Emergency legislation.

For temporary (90 day) amendment of section, see § 4062(f) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(f) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

Subchapter III. Farm-to-School Program.

§ 38-823.01. Local food sourcing, reimbursement, and education.

Section references. — This section is referenced in § 38-826.02.

Emergency legislation. — For temporary (90 day) addition of section, see § 4062(g) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 4062(g) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

§ 38-823.01a. Comprehensive food services plan.

(a) Before February 15, 2013, the City Administrator shall transmit to the Council and to the Healthy Schools and Youth Commission a comprehensive food services plan that shall include:

(1) A plan to reduce the cost of providing food services in the District of Columbia Public Schools ("DCPS"), without reducing the quality, taste, or nutritional standards of the food being served, including an:

(A) Examination of how similar jurisdictions provide food services in schools;

(B) Explanation of the cost drivers in the DCPS food services program;

(C) Accounting of:

(i) The local funds subsidies (net losses) required by federal programs for each year since fiscal year 2007, including the total subsidy per year and the subsidy per meal served per year;

(ii) Whether the District has received all of the rebates, credits, and other funds owed by its current food-service vendors;

(D) An evaluation of whether preparing meals internally without an outside vendor would reduce costs; and

(E) An implementation plan and timeline for the DCPS food services program to become cost-neutral;

(2) An analysis of the efficiencies and savings that could be gained by combining the food services programs in:

(A) The Department of Corrections;

(B) The Department of Human Services;

(C) The Department of Mental Health;

(D) The Department of Parks and Recreation;

(E) The District of Columbia Public Schools;

(F) The Office of Aging; and

(G) Other agencies;

(3) An analysis of whether a centralized food services program could offer public charter schools the opportunity to purchase meals from it, instead of from a private vendor; and

(4) An analysis of how the District's food service programs can become more sustainable.

(b) The City Administrator shall be assisted in preparing the plan required by subsection (a) of this section by the:

(1) District of Columbia Public Schools;

(2) Office of the State Superintendent of Education;

(3) Department of General Services;

(4) Mayor's Office of Budget and Finance;

(5) Council's Budget Office;

(6) Office of the Chief Financial Officer; and

(7) City Administrator.

(July 27, 2010, D.C. Law 18-209, § 301a, as added Sept. 20, 2012, D.C. Law 19-168, § 4062(g), 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added this section.

Emergency legislation. — For temporary addition of section, see § 4062(g) of the Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290), applicable as of June 20, 2012.

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

§ 38-823.03. Mandatory reporting.

On or before June 30 of each year, the Office of the State Superintendent of Education shall submit to the Mayor, the Council, and the Healthy Schools and Youth Commission a comprehensive report on the District's farm-to-school initiatives and recommendations for improvement.

(July 27, 2010, D.C. Law 18-209, § 303, 57 DCR 4779; Sept. 20, 2012, D.C. Law 19-168, § 4062(h), 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 substituted "June 30" for "September 30."

Emergency legislation. — For temporary (90 day) amendment of section, see § 4062(h) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(h) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

Subchapter IV. Physical and Health Education.

§ 38-824.02. Physical and health education requirements.

Section references. — This section is referenced in § 38-821.02.

Emergency legislation. — For temporary (90 day) addition of section, see § 4062(i) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 4062(i) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

§ 38-824.02a. Interscholastic athletics plan.

(a) On or before February 15, 2013, the Office of the State Superintendent of Education shall transmit to the Council a strategic plan for increasing access to, participation in, and the quality of an interscholastic athletics program in District of Columbia Public Schools and public charter schools by the 2014-2015 school year.

(b) The strategic plan shall include a description of:

(1) The level of programs needed to ensure greater access to interscholastic athletics;

(2) The resources required to operate a robust interscholastic athletics program throughout the public schools;

(3) How District facilities may be better utilized to provide for interscholastic athletics; and

(4) The effect of a robust athletics program on student health and community involvement.

(July 27, 2010, D.C. Law 18-209, § 402a, as added Sept. 20, 2012, D.C. Law 19-168, § 4062(i), 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added this section.

Emergency legislation. — For temporary addition of section, see § 4062(i) of the Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290), applicable as of June 20, 2012.

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

Subchapter V. Environment.

§ 38-825.01. Environmental programs office.

(a)(1) An environmental programs office is established in the Department of General Services and shall:

(A) Contract with vendors to recycle all materials required by District law at all public schools, including food services, by December 31, 2010, and provide technical assistance to public charter schools about recycling.

(B) Develop a master recycling plan for public schools on or before December 31, 2011 to reach a system-wide diversion rate of 45% by August 1, 2015;

(C) Analyze utility usage at each public school and develop a plan to reduce that amount by 20% on or before August 1, 2015;

(D) Establish an integrated pest management program;

(E) Test drinking water in public schools for lead and promptly take any remedial action required;

(F) Comply with the Environmental Protection Agency's Lead; Renovation, Repair, and Painting Program, established by 40 C.F.R. Part 745;

(G) Post the results of its environmental testing online;

(H) Promote the Environmental Protection Agency's Indoor Air Quality Tools for Schools Program to reduce exposure to environmental factors that impact asthma among children and adults in public schools;

(I) Develop an electronic recycling policy for public schools on or before December 31, 2011; and

(J) Establish a composting program in the District of Columbia Public Schools.

(2) The contracts under paragraph (1)(A) of this subsection shall be negotiated to provide a financial incentive to reduce the amount of waste created in public schools and, when possible, to increase diversion rates in public schools;

(b) The District of Columbia Public Schools shall:

(1) Use environmentally friendly cleaning supplies in public schools; provided, that the agency may exhaust its current supply of conventional cleaners; and

(2) Prepare and transmit to the Mayor, the Council, and the Healthy

Schools and Youth Commission, on or before December 31, 2012, a plan to use sustainable products in serving meals to students.

(c) On or before December 31, 2012, the Mayor shall prepare and transmit to the Council a comprehensive report describing the implementation of recycling, composting, energy-reduction, pest management, air quality, and environmentally friendly cleaning supplies programs in public schools. The report shall include:

(1) A thorough, school-by-school breakdown of the waste stream in public schools, including tonnages, components, and diversion rates;

(2) Baseline energy usage, an analysis of usage patterns, and savings achieved;

(3) Recommendations and a timeline for further implementing these programs; and

(4) A proposal for recognizing and rewarding schools that significantly improve their environmental portfolio.

(July 27, 2010, D.C. Law 18-209, § 501, 57 DCR 4779; Oct. 20, 2011, D.C. Law 19-37, § 2(i), 58 DCR 6841; Sept. 20, 2012, D.C. Law 19-168, § 4062(j), 59 DCR 8025.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "Department of General Services" for "Office of Public Education Facilities Modernization" in the introductory language of (a)(1); added (a)(1)(J); substituted "December 31, 2012" for "December 31, 2010" in (b)(2); substituted "December 31, 2012" for "December 31, 2011" in the first sentence of the introductory language of (c); and made related changes.

Emergency legislation.

For temporary (90 day) amendment of section, see § 4062(j) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(j) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

§ 38-825.03. School Gardens Program.

(a) A School Gardens Program is established within the Office of the State Superintendent of Education. The School Gardens Program shall:

(1) Coordinate the efforts of community organizations, the Department of Parks and Recreation, the District Department of the Environment, the District of Columbia Public Schools, the Department of General Services, the Public Charter School Board, and the University System of the District of Columbia to establish gardens as integral components of public schools and public charter schools;

(2) Complement the Food Production and Urban Gardens Program, established by § 48-402;

(3) Establish and convene a Garden Advisory Committee, composed of community organizations, District government agencies, and other interested persons;

(4) Collect data on the location and types of gardens in public schools and public charter schools;

(5) Provide horticultural guidance and technical assistance to public schools and public charter schools;

(6) Coordinate curricula for school gardens and related projects;

(7) Provide training, support, and assistance to gardens in public schools and public charter schools; and

(8) Assist public schools and public charter schools in receiving certification as U.S. Department of Education Green Ribbon Schools.

(b) On or before June 30, 2012, the School Gardens Program shall issue a report to the Mayor, the Council, and the Healthy Schools and Youth Commission about the state of school gardens in the District of Columbia, plans for expanding them, and recommendations for improving the program.

(c) The University of the District of Columbia shall assist the School Gardens Program by providing technical expertise, curricula, and soil testing for school gardens.

(d) As permitted by federal law, when tests show that the soil is safe and when produce is handled safely, produce grown in school gardens may be identified and served to students at the school, including in the cafeteria. Produce grown in school gardens may be sold and the proceeds from such sales shall be expended for the benefit of the public school where the produce was grown.

(e) School gardens shall include a demonstration compost pile when feasible.

(July 27, 2010, D.C. Law 18-209, § 503, 57 DCR 4779; Oct. 20, 2011, D.C. Law 19-37, § 2(k), 58 DCR 6841; Sept. 20, 2012, D.C. Law 19-168, § 4062(k), 59 DCR 8025.)

Section references. — This section is referenced in § 38-826.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "Department of General Services" for "Office of Public Education Facilities Modernization" in (a)(1).

Emergency legislation.

For temporary (90 day) amendment of section, see § 4062(k) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(k) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

Subchapter VI. Health and Wellness.

§ 38-826.02. School health profiles.

(a) On or before February 15 of each year, each public school and public charter school shall submit the following information to the Office of the State Superintendent of Education regarding each of its campuses:

(1) Health programs:

(A) Whether the school has full-time, part-time, or no nurse coverage;

(B) The name and contact information of the school's nurse;

(C) Whether the school has a school-based mental health program or offers similar services on site;

(D) Whether there is a certified or highly qualified health teacher on staff; and

(E) Whether there is a school-based health center;

(2) Nutrition programs:

(A) The name of the school's food service vendor;

(B) Whether the school's meals meet the nutritional standards required by federal and District law;

(C) Where the information required by § 38-822.05 can be found;

(D) Whether the school participates in the farm-to-school program under § 38-823.01;

(E) Whether the school participates in the School Gardens Program under § 38-825.03;

(F) The number of students qualifying for free, reduced-price, and paid meals;

(G) For the most recent November, the average daily participation in the national school breakfast and school lunch programs with breakdowns for the number of free, reduced-price, and paid students participating in school breakfast and lunch programs on an average daily basis;

(H) Whether the school participates in Afterschool Meal Snack and Supper Program and if so, the number of children served snacks and suppers on an average daily basis;

(I) For elementary schools, whether the school participates in the Fresh Fruit and Vegetable Snack Program;

(J) Whether the school participates in D.C. Free Summer Meals Program and if so, the number of breakfasts, lunches, suppers, and snacks served on an average daily basis the preceding summer;

(K) Whether the schools has vending machines and if so, how many vending machines, the hours of operation of said vending machines, and what items are sold from the machines; and

(L) Whether the school has a school store and if so, what food and beverages are sold and the hours of operation;

(3) Physical and health education:

(A) The average amount of weekly physical education that students receive in each grade;

(B) The average amount of weekly health education that students receive in each grade; and

(C) How the school promotes physical activity;

(4) Wellness policy:

(A) Whether the school is in compliance with its local wellness policy; and

(B) Where a copy of the school's local wellness policy can be found.

(b) The Office of the State Superintendent of Education may change the information, as set forth in subsection (a) of this section, to be included in the healthy schools profile form.

(c) On or before January 15 of each year, each public school and public charter school shall post the information required by subsection (a) of this

section online if the school has a website and make the form available to parents in its office.

(d) The Office of the State Superintendent of Education shall post the information required by subsection (a) of this section on its website within 30 days of receipt.

(July 27, 2010, D.C. Law 18-209, § 602, 57 DCR 4779; Oct. 20, 2011, D.C. Law 19-37, § 2(l), 58 DCR 6841; Sept. 20, 2012, D.C. Law 19-168, § 4062(m), 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 94, 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "30 days" for "14 days" in (d).

The 2012 amendment by D.C. Law 19-171 substituted "Whether the school" for "Whether your school" in (a)(2)(H) through (a)(2)(L).

Emergency legislation.

For temporary (90 day) amendment of section, see § 4062(m) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(m) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 38-821.02.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

§ 38-826.03. School health centers.

(a) The Department of Health, in conjunction with the Department of Healthcare Finance, the District of Columbia Public Schools, the Department of General Services, and the Public Charter School Board, shall develop a plan to establish and operate school health centers in public schools and public charter schools on or before December 31, 2015.

(b) The plan shall include the following:

(1) A needs assessment to determine where school health centers shall be located, including a justification for any determination that a school health center is not needed at a public high school; and

(2) A proposal for financial sustainability for the school health centers.

(c) The plan shall be submitted to the Mayor, the Council, and the Healthy Schools and Youth Commission on or before December 31, 2012.

(July 27, 2010, D.C. Law 18-209, § 603, 57 DCR 4779; Oct. 20, 2011, D.C. Law 19-37, § 2(m), 58 DCR 6841; Sept. 20, 2012, D.C. Law 19-168, § 4062(l), 59 DCR 8025.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "Department of General Services" for "Office of Public Education Facilities Modernization" in (a); and substituted "December 31, 2012" for "December 31, 2011" in (c).

Emergency legislation.

For temporary (90 day) amendment of section, see § 4062(l) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(l) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

Subchapter VII. Healthy Youth and Schools Commission.

§ 38-827.01. Establishment of the Healthy Youth and Schools Commission.

(a) There is established the Healthy Youth and Schools Commission with the purpose of advising the Mayor and the Council on health, wellness, and nutritional issues concerning youth and schools in the District, including:

(1) School meals;

(2) Farm-to-school programs;

(3) Physical activity and physical education;

(4) Health education;

(5) Environmental programs;

(6) School gardens;

(7) Sexual health programming;

(8) Chronic disease prevention;

(9) Emotional, social, and mental health services;

(10) Substance abuse; and

(11) Violence prevention.

(b) Specific functions of the Commission shall include the following:

(1) Advising on the operations of all District health, wellness, and nutrition programs;

(2) Reviewing and advising on the best practices in health, wellness, and nutrition programs across the United States;

(3) Recommending standards, or revisions to existing standards, concerning the health, wellness, and nutrition of youth and schools in the District;

(4) Advising on the development of an ongoing program of public information and outreach programs on health, wellness, and nutrition;

(5) Making recommendations on enhancing the collaborative relationship between the District government, the federal government, the University of the District of Columbia, local nonprofit organizations, colleges and universities, and the private sector in connection with health, wellness, and nutrition;

(6) Identifying gaps in funding and services, or methods of expanding services to District residents; and

(7) Engaging students in improving health, wellness, and nutrition in schools.

(c) On or before November 30 of each year, the Commission shall submit to the Mayor and the Council a comprehensive report on the health, wellness, and nutrition of youth and schools in the District. The report shall:

(1) Explain the efforts made within the preceding year to improve the health, wellness, and nutrition of youth and schools in the District;

(2) Discuss the steps that other states have taken to address the health, wellness, and nutrition of youth and schools; and

(3) Make recommendations about how to further improve the health, wellness, and nutrition of youth and schools in the District.

(July 27, 2010, D.C. Law 18-209, § 701, 57 DCR 4779; Sept. 20, 2012, D.C. Law 19-168, § 4062(n), 59 DCR 8025.)

Section references. — This section is referenced in § 38-821.01.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 substituted "November 30" for "September 30" in the first sentence of the introductory language of (c).

Emergency legislation. — For temporary (90 day) amendment of section, see § 4062(n) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4062(n) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 38-821.02.

Editor's notes. — Section 4063 of D.C. Law 19-168 provided that § 4062 of the act shall apply as of June 20, 2012.

SUBTITLE II. PUBLIC EDUCATION — ADULT AND COMMUNITY.

CHAPTER 10. FEES FOR SELECT ADULT, COMMUNITY, AND CONTINUING EDUCATION COURSES.

§ 38-1003. Accountability for funds received.

Temporary legislation. — Sections 2 and 3 of D.C. Law 19-199 established a task force to develop a city-wide strategic plan for career and technical education programs in the District, to read as follows:

"Section 2. Definitions. For the purposes of this act, the term:

"(1) 'Career cluster' means a non-duplicative, sequential CTE course of study recognized by the U.S. Department of Education and approved by the Office of the State Superintendent of Education and the respective industry council.

"(2) 'Completion rate' means the percentage of students who enroll and complete, within 4 years at the secondary level and 2 years at the post-secondary level, a non-duplicative, sequential CTE course sequence of 3 credits or more, which result in an industry-recognized credential, certificate, or degree, or relevant college credit, or both.

"(3) 'Concentration rate' means the percentage of students enrolled in CTE courses who complete 3 credits in a non-duplicative, sequential CTE course sequence of 4 credits or more, or 2 credits in a non-duplicative, sequential CTE course sequence of 3 credits within 4 years.

"(4) 'CTE' means career and technical education.

"(5) 'DCPS' means the District of Columbia Public Schools.

"(6) 'Industry council' means a group of representatives from the private sector, established or approved by OSSE or WIC, working in the same area as a particular career cluster.

"(7) 'OSSE' means the Office of the State Superintendent of Education established by section 2 of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601).

"(8) 'PCSB' means the Public Charter School Board established by section 2214 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.14).

"(9) 'UDCC' means the University of the District of Columbia Community College.

"(10) 'WIC' means the Workforce Investment Council established by section 4 of the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1603).

"Section 3. Establishment of CTE Task Force.

"(a) By August 1, 2012, the Mayor shall establish the CTE Task Force to review best practices for CTE programs and develop a city-wide strategic plan for CTE programs administered by District of Columbia Public Schools, District of Columbia public charter schools, the University of the District of Columbia Community College, or any other secondary or post-secondary institution that receives federal or local funding for CTE programming.

"(b) The CTE Task Force shall consist of the following 8 members:

"(1) The Chairman of the Council's Committee on Economic Development and Housing, or his designee;

"(2) The Chairman of the Council's Committee on Jobs and Workforce Development, or his designee;

"(3) The Deputy Mayor for Education, or his designee;

"(4) The Chancellor of the District of Columbia Public Schools, or her designee;

"(5) The Executive Director of the Public Charter School Board, or his designee;

"(6) The State Superintendent of Education, or her designee;

"(7) The Executive Director of the Workforce Investment Council, or her designee; and

"(8) The Interim Chief Executive Officer of the University of the District of Columbia Community College, or his or her designee;

"(c) Throughout the creation of the city-wide strategic plan, the CTE Task Force shall consult with additional stakeholder groups, including representatives of the District business community who represent industries involved with CTE, representatives from the Washington Teachers Union, representatives from the philanthropic community, and representatives from organizations focused on education or youth workforce development research or service provision.

"(d) The Office of the State Superintendent shall be responsible for convening and facilitating the CTE Task Force as well as leading the effort to draft the city-wide strategic plan.

"(e) By January 1, 2013, the CTE Task Force shall present to the Mayor and the Council the city-wide strategic plan for CTE. The plan shall align with all federal laws, regulations, funding guidance, and the national Common Career Technical Core and shall include:

"(1) A city-wide analysis of CTE programs currently offered at District of Columbia Public Schools, District of Columbia public charter schools, and the University of the District of Columbia Community College to determine their quality, popularity, concentration and completion rates, and whether the career cluster is focused on high-skill, high-wage, or high-demand occupations;

"(2) Specific requirements of all CTE programs, including:

"(A) The implementation of a CTE curriculum that consists of a non-duplicative, sequential course of study consisting of 3 credits or more that at a minimum:

"(i) Integrate academic, career, and technical education;

"(ii) Utilize work-based learning experiences, including industry-relevant internships or work-study placements;

"(iii) Provide technical preparation for high-skill, high-wage, or high-demand occupations, as determined by the relevant industry council and in accordance with standards set forth by federal and local law;

"(iv) Result in an industry-recognized credential, certificate or degree, or relevant college credit;

"(v) Are designed to lead to placement in high-skill, high-wage, or high-demand occupations or lead to further education in the relevant field; and

"(vi) Meet any other requirements and spending restrictions prescribed by federal or local law;

"(B) Where appropriate, the creation and implementation of dual-enrollment, articulation, or early-college programs with local colleges, universities, post-secondary institutions, or apprenticeship programs;

"(C)(i) Established partnerships with an industry council, facilitated by OSSE or WIC, which shall be tasked with informing and assisting with:

"(I) The CTE curriculum for each career cluster;

"(II) The criteria utilized for selecting, training, evaluating, compensating, and scheduling CTE staff and faculty;

"(III) The development and monitoring of outcome measurements; and

"(IV) The identification of internship and job opportunities for students and graduates; or

"(ii) Alternatively, the Local Education Agency has the option to establish and facilitate its own industry council as long as the industry council is approved by OSSE or WIC;

"(3) A strategy to significantly increase the District's concentration and completion rates of the relevant CTE curriculum as outlined in paragraph (2)(A) of this subsection with annual benchmarks and a 5-year goal that every CTE program achieve a completion rate and a concentration rate that meet or exceed the national averages;

"(4) An outreach and engagement strategy for students who may consider participating in CTE programs, including specific consideration as to how CTE programs can be used to re-engage youth, between the ages of 16 and 24 years, who are currently disconnected from school, do not have a high school diploma or equivalency, and who are not employed;

"(5) An implementation plan for a pilot program that would accept students into CTE programs from other District of Columbia public or charter schools for the sole purpose of completing CTE-specific course work without requiring a change in full-time enrollment;

"(6) A process for determining the eligibility of career clusters that includes consultation with the WIC and review of labor market data

to ensure the field of study is focused on high-skill, high-wage, or high-demand occupations;

"(7) An analysis of whether any new career clusters should be added to fill a gap in course offerings and a determination as to which institution would be best equipped to develop and offer that career cluster;

"(8) A detailed delineation of responsibilities among the relevant agencies, including OSSE, DCPS, PCSB, UDCCC, and other post-secondary institutions, and the WIC;

"(9) An analysis of whether CTE programs should receive additional flexibility in determining, in conjunction with their relevant industry councils, appropriate guidelines for hiring, scheduling, assessing, and compensating CTE faculty in accordance with federal and local law and collective bargaining agreements, and, if so, a process for granting and administering such flexibility;

"(10) A strategy to support and incentivize CTE programs to provide night or weekend CTE course offerings to adult District residents; and

"(11) A policy allowing individual public charter schools to apply to the PCSB for a waiver from the CTE standards set forth in the plan as long as the PCSB has found that the particular charter school has a compelling justification for such a waiver and has established an alternative set of standards and outcome measures for the particular charter school that will be communicated to the OSSE and monitored by the PCSB.

"(f)(1) The city-wide strategic plan shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the plan, in whole or in part, by resolution within this 45-day review period, the plan shall be deemed approved.

"(2) If the plan is disapproved by the Council, the Council's Committee of the Whole shall transmit a report to the CTE Task Force citing the Council's concerns within 30 days of the disapproval and the CTE Task Force shall have 30 days from the date it received the report to review the report and re-submit a new plan to the Mayor and the Council for approval in accordance with paragraph (1) of this subsection."

Section 5(b) of D.C. Law 19-199 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) addition of sections, see §§ 2 and 3 of the (D.C. Act 19-408, July 24, 2012, 59 DCR 9130).

SUBTITLE III. PUBLIC EDUCATION — POST SECONDARY.

CHAPTER 12. PUBLIC POSTSECONDARY EDUCATION REORGANIZATION.

UNIT A. GENERAL

Subchapter II. University of the District of Columbia

Subchapter IV. Miscellaneous

UNIT D. UDC DEBT COLLECTION FUND

Unit A. General.

Subchapter II. University of the District of Columbia.

§ 38-1202.01. Establishment of Board of Trustees and University.

Section references. — This section is referenced in § 1-523.01, § 47-2853.04, and § 47-4431.

Emergency legislation.

For temporary (90 day) addition of sections, see §§ 4032, 4042 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of sections, see §§ 4032, 4042 of Fiscal Year 2013 Budget

Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

§ 38-1202.06. Duties of Trustees.

It shall be the duty of the Trustees to:

(1) Review the existing public institutions of postsecondary education with respect to:

(A) Accreditation;

(B) Present programs and functions;

(C) Actual and potential capabilities; and

(D) Educational policies and procedures;

(2)(A) Establish the University of the District of Columbia consisting of, but not limited to, 2 major components, liberal and fine arts and vocational and technical education;

(B) Prepare and, from time to time, revise a long-range plan for the development of the University which shall include the type and scope of programs offered and envisioned. Such plan shall also include the development, expansion, integration, coordination and efficient use of the facilities, physical plant, curricula, and standards of public postsecondary education. Such initial plan and any revisions thereof shall be made available to the public, the Council of the District of Columbia and the Mayor for a period of not less than 60 days prior to its implementation and the Trustees shall hold such hearings and public forums as may be necessary to receive public response and comment on such plans;

(C) Operate a public law school component, established under subchapter VI of this unit, in a manner that shall:

(i) Maintain any accreditation necessary to qualify the graduates of the School of Law to take the bar examinations of the District of Columbia and of the several states;

(ii) Represent, to the maximum extent feasible, the legal needs of low-income persons, particularly those who reside in the District of Columbia, through the training of law students; and

(iii) Recruit and enroll, to the maximum extent feasible, students from racial, ethnic, and other population groups that in the past have been underrepresented among persons admitted to the bar of the District of Columbia and the several states;

(3) Establish or approve policies and procedures governing admissions, curricula, programs, graduation, the awarding of degrees, and general policy making for the components of the University;

(4) Prepare and submit to the Mayor, on a date fixed by the Mayor, an annual budget for each fiscal year. Such budget shall include a proposed financial operating plan for such fiscal year, and a capital and educational improvements plan for such fiscal year and the succeeding 4 fiscal years for the University. The Mayor and the Council shall, after review and consideration of the budget submitted by the Trustees, establish the maximum amount of funds for each of the major components of the University and the total University budget which will be allocated to the Trustees;

(5) Transfer during the fiscal year any appropriation balance available for one item of appropriation to another item of appropriation or to a new program designated by action of the Trustees; provided, that any such action under this paragraph shall be taken in accordance with the provisions of the reprogramming policy and laws of the District of Columbia;

(6) Repealed;

(7) Enter into negotiations and binding contracts in accordance with District contracting and procurement rules and regulations to perform organized research, training and demonstrations on a reimbursable basis for the United States and the government of the District of Columbia and other public and private agencies;

(8) Fix tuition, and fees in addition to tuition, to be paid by resident and nonresident students attending the University; provided, that such tuition and fees are adopted by the Trustees in accordance with the provisions of § 2-505(a);

(9) Deposit all revenues and receipts of any nature whatsoever derived from tuition and fees received from students with the District of Columbia Treasurer under regulations established by the Mayor, which revenues shall be accounted for in the Municipal University Fund as a separate revenue source allocated to provide authority for such University purposes as the Board of Trustees may approve;

(10) Select, appoint, and fix the compensation for a Chief Executive Officer of the University and of such staff for the Board of Trustees as it deems necessary and approve the appointment and compensation of the academic and administrative heads of each of the components of the University and of such other officers as it deems necessary, including legal counsel, subject to the provisions of Chapter 6 of Title 1. The Chief Executive Officer shall serve at the pleasure of the Trustees;

(11) Submit recommendations to the Mayor and the Council of the District of Columbia from time to time relating to legislation affecting the administration and programs of the University;

(12) Develop and define, in conjunction with the faculty, a policy governing academic freedom for the University and establish mechanisms to ensure its protection and enforcement;

(13) Perform such duties and make such rules and regulations as may be necessary to carry out the purposes of this unit;

(14) Seek to establish with the Board a Coordination Committee to determine areas of cooperation, coordination and assistance;

(15) Utilize the services and seek the counsel and advice of the District of Columbia Commission on Postsecondary Education in planning the development of a program for public postsecondary education in the District of Columbia;

(16) Generally determine, control, supervise, manage, and govern all affairs of the University;

(17) Repealed;

(18) Establish health policies and procedures for adult students as provided in Chapter 6 of this title;

(19)(A) Coordinate the state system, in accordance with federal requirements, for pre-k teacher preparation, professional development, and training;

(B) Establish a collaborative of District of Columbia colleges and universities to craft a higher education incentive grant program and a scholarship program and develop a pre-k workforce development plan, as required by § 38-274.01; and

(C) Establish the higher education incentive grant program and the scholarship program for the purpose of increasing the number of highly qualified pre-k teachers and assistant teachers who are eligible to teach in a high-quality pre-k classroom as of September 1, 2014, as set forth in § 38-274.01; and

(20)(A) Procure all goods and services necessary to operate the University independent of the Office of Contracting and Procurement and the requirements of Chapter 3A of Title 2, except as specified in § 2-351.05; provided, that the Council has approved proposed rules governing the procurement of goods and services.

(B) Submit any proposed rules governing the procurement of goods and services promulgated subsequent to October 9, 2010, to the Council for its review and approval.

(Oct. 26, 1974, 88 Stat. 1427, Pub. L. 93-471, title II, § 206; Nov. 1, 1975, D.C. Law 1-36, § 4, 22 DCR 2923; Mar. 3, 1979, D.C. Law 2-139, § 3204(f), 25 DCR 5740; Aug. 22, 1980, D.C. Law 3-82, § 3(a), 27 DCR 2647; Feb. 9, 1984, D.C. Law 5-47, § 2, 30 DCR 5641; Feb. 24, 1987, D.C. Law 6-177, § 2(c), (d), 33 DCR 7241; Aug. 1, 1996, D.C. Law 11-152, § 301(c), 43 DCR 2978; Apr. 12, 1997, D.C. Law 11-259, § 314(b), 44 DCR 1423; Apr. 20, 1999, D.C. Law 12-231, § 2(a), 46 DCR 487; Mar. 8, 2011, D.C. Law 18-285, § 3, 57 DCR 11005; Mar. 8, 2011, D.C. Law 18-286, § 2(b), 57 DCR 11012; Sept. 26, 2012, D.C. Law 19-171, §§ 96, 226, 59 DCR 6190.)

Section references. — This section is referenced in § 1-636.02, § 38-1202.01, and § 47-2853.04.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction; and substituted "the requirements of Chapter 3A of Title 2, except as specified in § 2-351.05" for "the requirements of § 2-301.01 et seq., except as specified in § 2-303.20" in (20)(A).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Subchapter IV. Miscellaneous.

§ 38-1204.01. Meetings of Trustees.

(a)(1) The chairperson or a majority of the members of the Trustees may convene a meeting. The Trustees shall hold meetings periodically, as scheduled by the Trustees; provided, that at least 4 meetings shall be held each year. All meetings shall be held in the District of Columbia. Except as provided in

paragraph (2) of this subsection, meetings shall be noticed to the public and open to the public.

(2) The Trustees may convene in executive session by a vote of a majority of the voting members serving to take action on matters that:

(A) Relate to personnel or to practices of the Trustees;

(B) Would result in the disclosure of matters specifically exempted from disclosure by statute; or

(C) Would result in the disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(3) The Trustees shall keep the minutes of each meeting of the Trustees and shall make the minutes of each public meeting available to the public for inspection and distribution.

(b) No official action may be taken at a meeting or an executive session unless a quorum is present; except, that a lesser number may hold a hearing. A majority of the voting members serving on the Board of Trustees shall constitute a quorum.

(Oct. 26, 1974, 88 Stat. 1429, Pub. L. 93-471, title IV, § 401; Nov. 1, 1975, D.C. Law 1-36, § 5, 22 DCR 2931; Mar. 3, 1979, D.C. Law 2-132, § 2, 25 DCR 3489; Mar. 8, 2011, D.C. Law 18-286, § 2(c), 57 DCR 11012; Mar. 19, 2013, D.C. Law 19-251, § 2, 60 DCR 980.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-251 substituted "4 meetings" for "6 meetings" in (a)(1).

Legislative history of Law 19-251. — Law 19-251, the "UDC Board Meeting Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-694. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 7, 2013, it was assigned Act No. 19-588 and transmitted to Congress for its review. D.C. Law 19-251 became effective on Mar. 19, 2013.

Unit D. UDC Debt Collection Fund.

§ 38-1251.01. University of the District of Columbia Debt Collection Fund.

(a) There is established as a special fund the University of the District of Columbia Debt Collection Fund ("Fund"), which shall be administered by the University of the District of Columbia in accordance with subsection (c) of this section.

(b) The fund shall consist of the revenue from the collection of unpaid student tuition, student fees, and student loans by the Central Collection Unit in accordance with subchapter XVII of Chapter 3 of Title 1 [§ 1-350.01 et seq.].

(c) The Fund shall be used for expenses associated with the operations of the University of the District of Columbia.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(Dec. 24, 2013, D.C. Law 20-61, § 7033, 60 DCR 12472.)

Cross references. — Collection on behalf of the University of the District of Columbia, § 1-350.02a.

Section references. — This section is referenced in § 1-350.02a.

Emergency legislation. — For temporary (90 days) addition of this section, see § 7033 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 7033 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-350.02.

Short title. — Section 7031 of D.C. Law 20-61 provided that Subtitle C of Title VII of the act may be cited as the "Delinquent Debt Recovery Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

CHAPTER 12A. COMMUNITY COLLEGE OF THE DISTRICT OF COLUMBIA PLAN FOR INDEPENDENCE.

§ 38-1271.01. University of the District of Columbia Community College Transition to Independence Advisory Board.

Emergency legislation. — For temporary addition of provisions relating to University of the District of Columbia College Autonomy, see § 4042 of the Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 days) UDC Community College Workforce Development, see § 2152 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) UDC accreditation, see § 4042 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) UDC Community College Workforce Development, see § 2152 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

For temporary (90 days) UDC accreditation, see § 4042 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Short title.

Section 2151 of D.C. Law 20-61 provided that Subtitle P of Title II of the act may be cited as the "University of the District of Columbia Community College Workforce Development Act of 2013".

Section 4041 of D.C. Law 20-61 provided that Subtitle D of Title IV of the act may be cited as the "University of the District of Columbia Accreditation Amendment Act of 2013".

Editor's notes. — Section 4042 of D.C. Law 19-168, as amended by D.C. Law 20-61, § 4042, provided:

"(a) By November 1, 2012, the University of the District of Columbia shall transmit to the Middle States Commission on Higher Education a request for approval of a substantive change to reclassify the University of the District of Columbia Community College as a Branch Campus of the University of the District of Columbia. A copy of this request shall also be transmitted to the Council of the District of Columbia.

"(b) By October 1, 2012, the Chief Executive Officer of the University of the District of Columbia Community College shall be responsible for the day-to-day management of the Community College and shall have direct spending authority over the Community College budget, identified as Division (8000) in the University of the District of Columbia operating budget and shall regularly report directly to the Board of Trustees, or a subcommittee of the Board of Trustees, respecting the affairs of the Community College.

"(c) By December 1, 2013, the University of the District of Columbia shall submit to the Council a timeline, using existing resources, for the separate accreditation of the University of the District of Columbia Community College. This timeline shall address the following areas:

"(1) Transition of financial and administrative independence in the areas of student af-

fairs and academic affairs of the University of the District of Columbia Community College from the University of the District of Columbia;

"(2) Ability of the University of the District of Columbia Community College to obtain self-sufficiency in the areas of admissions and financial aid;

"(3) A separate personnel classification of University of the District of Columbia Community College employees;

"(4) Ability for the University of the District of Columbia Community College to initiate and sustain its own academic programs;

"(5) A policy for the University of the District of Columbia Community College Chief Executive Officer to regularly report to the University of the District of Columbia's Board of Trustees regarding the University of the District of Columbia Community College's affairs;

"(6) A fully operational University of the District of Columbia Community College foundation;

"(7) A financial plan for the University of the District of Columbia Community College that addresses funding, resource planning, and allocation responsibilities;

"(8) Approval of degree-granting authority from the Office of the State Superintendent for Education; and

"(9) Other evidence that the University of the District of Columbia Community College is effectively fulfilling its mission and serving students in a manner consistent with Middle States Commission on Higher Education's 10 requirements of affiliations and 14 accreditation standards."

Section 2152 of D.C. Law 20-61 provided that, notwithstanding any other provision of law, any funds not subject to federal requirements that are transferred from the Department of Employment Services ("Department") to the Workforce Development Program at the University of the District of Columbia Community College ("Community College") for workforce-development purposes shall be used by the Community College without regard to any reporting requirements or other oversight requirements by the Department. The Community College shall adopt or use policies and procedures currently in place to ensure appropriate reporting, tracking of funds, and controls.

Section 4043 of D.C. Law 20-61 provided: "In fiscal year 2014, of the funds allocated to Non-Departmental, an amount up to $1 million shall be transferred to the University of the District of Columbia ('UDC') if, by January 1, 2014, UDC raises an amount of $1 million from private donations for the purpose of meeting accreditation standards. The amount transferred under this section shall be matched dollar-for-dollar from the amount raised."

CHAPTER 13. EDUCATION LICENSURE COMMISSION.

Sec.
38-1309. Postsecondary educational institution; requirements.

§ 38-1309. Postsecondary educational institution; requirements.

(a) No person or postsecondary educational institution incorporated in the District of Columbia or outside of the District of Columbia shall operate a postsecondary educational institution in the District of Columbia, offer postsecondary education, have the power to grant or confer or offer to grant or confer a postsecondary degree or a diploma or certificate, offer postsecondary courses for credit, or issue transcripts or other documents to reflect credit toward a postsecondary degree, diploma or certificate, unless:

(1) The institution is granted a license to do so from the Commission or granted an exemption by the Commission in accordance with this chapter; and

(2) The institution is either organized or chartered in the District of Columbia and operates, keeps, or maintains a facility in the District through which educational instruction is offered, or organized or chartered outside the District of Columbia and is registered as a foreign corporation pursuant to § 29-101.99 or § 29-301.64, and operates, keeps, or maintains a facility in the

District through which educational instruction is offered, or is otherwise properly authorized to do business in the District of Columbia and operates, keeps, or maintains a facility in the District through which educational instruction is offered.

(b) No person shall state or imply that its educational program or course of instruction is approved for veteran's training in the District by the District of Columbia State Approving Agency or by the United States Veterans Administration, unless that person has obtained proper approval from the commission.

(c) Except as provided for in this chapter, no person shall sell, barter, or exchange for any consideration, or attempt to sell, barter, or exchange for any consideration, a degree, diploma, or certificate.

(c-1)(1) No educational institution licensed by the Education Licensure Commission ("Commission") under the provisions of this chapter shall use as its title, in whole or in part, the words United States, federal, American, national, or civil service, or any other words which might reasonably imply an official connection with the government of the United States, or any of its departments, bureaus, or agencies, or of the government of the District of Columbia, nor shall any such institutions advertise or claim the power to issue degrees under the authority of Congress or otherwise than under the authority of the license granted to them by the Commission as hereinbefore provided. The prohibition in this section contained shall be deemed to include and is hereby declared applicable to any individual or individuals, association, or incorporation outside of the District of Columbia which shall undertake to do business in the District of Columbia or to confer degrees or certificates therein; provided, that no institution, incorporated prior to April 16, 1934, under the provisions of this subchapter, and carrying on its work exclusively in any foreign country with the consent and approval of the government thereof, shall if otherwise entitled to be licensed by the Commission, be denied the same solely because of the inclusion in its name and as descriptive of its origin of any of the specific words the use of which is by this section forbidden to incorporations under the provisions of this subchapter.

(2) The Commission may, for good cause shown, waive the prohibition of this section for any nonprofit educational institution incorporated and licensed in any jurisdiction if:

(A) The institution clearly indicates to the Commission's satisfaction that it is not and does not hold itself out as or affiliated with an institution of the District of Columbia government or the federal government;

(B) The institution provides statements in a conspicuous place in all of its publications, advertising, and student contracts that the institution is not affiliated with the federal or District government;

(C) The institution is accredited by an accrediting association recognized by the United States Secretary of Education; and

(D) The institution otherwise meets all applicable licensing requirements.

(d) The Commission, before granting any license, may require satisfactory evidence:

(1) That, in the case of an individual, unincorporated group of individuals, or incorporated institution, the individual, a majority of the group, or a

majority of the trustees, directors, or managers of the incorporated institution are persons of good repute and qualified to conduct an institution of learning; and

(2) That no degree shall be awarded by an institution that is not accredited if more than one-half of the requirements for the degree are earned by correspondence or extramural study, unless this fact is conspicuously noted upon the degree conferred.

(e) No degree shall be granted in medicine or any healing art, or in dentistry, for study pursued or work done by correspondence.

(Apr. 6, 1977, D.C. Law 1-104, § 9, as added Mar. 16, 1989, D.C. Law 7-217, § 2(h), 36 DCR 523; Feb. 5, 1994, D.C. Law 10-68, § 29(a), 40 DCR 6311; Aug. 16, 2008, D.C. Law 17-219, § 4010(b), 55 DCR 7598; Mar. 5, 2013, D.C. Law 19-210, § 3, 59 DCR 13171.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-210 added (c-1).

Legislative history of Law 19-210. — Law 19-210, the "District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor's notes. — Application of Law 19-210. Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

SUBTITLE IV. PUBLIC EDUCATION — CHARTER SCHOOLS.

CHAPTER 18. DISTRICT OF COLUMBIA SCHOOL REFORM (PUBLIC CHARTER SCHOOLS).

Subchapter II. Public Charter Schools

Subchapter II. Public Charter Schools.

§ 38-1802.13. Charter revocation.

Section references. — This section is referenced in § 38-1800.02, § 38-1802.01, § 38-1802.12, § 38-1802.14, § 38-1804.01, § 38-2901, and § 38-2906.02.

CASE NOTES

Revocation held proper.

Decision affirming the revocation of a charter school's charter pursuant to D.C. Code § 38-1802.13 was proper, as the Public Charter School Board set forth a chart of standardized test scores over the past eight years that demonstrated both low rankings on reading and math proficiency and the absence of any consistent significant improvement. Kamit Inst. for Magnificent Achievers v. District of Columbia

Pub. Charter Sch. Bd., 55 A.3d 894, 2012 D.C. App. LEXIS 522 (2012).

§ 38-1802.13a. Mandatory dissolution.

Section references. — This section is referenced in § 38-1802.02 and § 38-1802.12.

CASE NOTES

Standing.

As the revocation of a charter for a charter school was final, the school lacked standing to appeal the denial of its request for reimbursement of severance payments from the Public Charter School Board because it had no "legally protected interest" in the escrowed funds and it suffered no injury by being deprived of them. Kamit Inst. for Magnificent Achievers v. D.C. Pub. Charter Sch. Bd., 81 A.3d 1282, 2013 D.C. App. LEXIS 805 (2013).

§ 38-1802.14. Public Charter School Board.

Section references. — This section is referenced in § 38-271.02, § 38-1800.02, and § 38-1835.01.

Emergency legislation.

For temporary (90 day) addition of section, see § 4052 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of § 4052 of Act 19-383, see § 2 of the District of Columbia School Reform Extension of Time Emergency Amendment Act of 2012 (D.C. Act 19-410, July 24, 2012, 59 DCR 9137).

For temporary (90 day) amendment of § 4052 of Act 19-385, see § 3 of the District of Columbia School Reform Extension of Time Emergency Amendment Act of 2012 (D.C. Act 19-410, July 24, 2012, 59 DCR 9137).

For temporary (90 day) addition of section, see § 4052 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

§ 38-1802.14a. Charter schools admissions task force.

(a) There is established a task force that shall study providing a neighborhood preference in charter school admissions for the 2013-2014 school year. The task force shall consist of:

(1) The following 5 government officials, or their designees:

(A) Chairman of the Public Charter School Board;

(B) Chairman of the Council of the District of Columbia;

(C) State Superintendent of Education;

(D) Deputy Mayor for Education; and

(E) Chancellor of the District of Columbia Public Schools; and

(2) The following nongovernment members:

(A) Two representatives from charter support organizations;

(B) A representative from the education department of a national research organization;

(C) A representative from a national charter school organization;

(D) Two charter school leaders selected by the Public Charter School Board Chair; and

(E) A labor representative.

(b) The task force shall:

(1) Be chaired by the Chairman of the Public Charter School Board, or his or her designee;

(2) Meet at an agreed to location as often as determined necessary by the Chairman of the task force;

(3) Explore the feasibility of offering a neighborhood preference in charter school admissions for the 2013-2014 school year; and

(4) By September 1, 2012, submit a report to the Council of its findings, which shall include:

(A) Consideration of the various ways in which a neighborhood preference can be designed, including:

(i) The pros and cons of a weighted lottery;

(ii) Setting aside of a certain percentage of new seats;

(iii) A geographically limited preference; and

(iv) A preference based on rankings in a city-wide application process;

(B) A definition of neighborhood for the purpose of setting boundaries in admissions;

(C) An examination of models that are being used in other jurisdictions and evaluation of their applicability to the District; and

(D) Recommendations based on its findings.

(Apr. 26, 1996, 110 Stat. 1321 [251], Pub. L. 104-134, § 2214a, as added Sept. 20, 2012, D.C. Law 19-168, § 4052, 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added this section.

Temporary legislation. — Section 2 of D.C. Law 19-202 amended Section 2214a(a)(4) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; to be codified at D.C. Official Code § 38-1802.14a(a)(4)), by striking the phrase "September 1, 2012," and inserting the phrase "December 15, 2012," in its place.

Section 4(b) of D.C. Law 19-202 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary addition of section, see § 4052 of the Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

CHAPTER 18A. MISCELLANEOUS PUBLIC CHARTER SCHOOL PROVISIONS.

Subchapter III. Evaluation of Authorizing Boards

Subchapter III. Evaluation of Authorizing Boards.

§ 38-1835.01. Evaluation of charter school authorizing boards.

(a) Management evaluation of the District of Columbia Chartering Author-

ities for the District of Columbia Public Charter Schools shall be conducted by the Comptroller General of the United States every five years.

(b) Evaluation shall include the following:

(1) Establish standards to assess each authorizer's procedures and oversight quality.

(2) Identify gaps in oversight and recommendations.

(3) Review processes of charter school applications.

(4) Extent of ongoing monitoring, technical assistance, and sanctions provided to schools.

(5) Compliance with annual reporting requirements.

(6) Actual budget expenditures for the preceding 5 fiscal years.

(7) Comparison of budget expenditures with mandated responsibilities.

(8) Alignment with best practices.

(9) Quality and timeliness of meeting § 38-1802.11(d), as amended.

(c) *Initial interim report to Congress.* — The Government Accountability Office shall submit to the Committees on Appropriations of the House of Representatives and Senate, no later than May 1, 2005, a baseline report on the performance of each authorizer in meeting the requirements of the School Reform Act of 1995.

(d) Hereafter § 38-1802.14(f), shall apply to the District of Columbia Board of Education Charter Schools Office.

(Oct. 18, 2004, 118 Stat. 1352, Pub. L. 108-335, § 346; Dec. 23, 2011, 125 Stat. 786, Pub. L. 112-74, § 816.)

Cross references. — Public Charter School Board, § 38-1802.14.

Effect of amendments. — The 2011 amendment by Pub. L. 112-74 deleted "Biennial" in the section heading and at the beginning of (a); added "every five years" at the end of (a); substituted "5" for "2" in (b)(6); and made related changes.

SUBTITLE V. EDUCATION PERSONNEL.

CHAPTER 20. RETIREMENT OF PUBLIC SCHOOL TEACHERS.

Subchapter II. Retirement After June 30, 1946

Part A

General

Subchapter II. Retirement After June 30, 1946.

PART A.

GENERAL.

§ 38-2021.01. Salary deductions; deposit.

(a) Beginning on the first day of the first pay period which begins after December 31, 1969, there shall be deducted and withheld from the annual salary of each teacher in the public schools of the District of Columbia an amount equal to 7% of the teacher's annual salary; except that in the case of teachers hired on or after the first day of the first pay period that begins after October 29, 1996, there shall be deducted and withheld from the annual salary of each teacher in the public schools of the District of Columbia an amount equal to 8% of the teacher's annual salary. The amounts deducted and withheld from the annual salary of each teacher, including amounts so deducted and withheld prior to July 1, 1946, under subchapter I of this chapter, shall be credited to an individual account of the teacher from whose salary the deduction is made, together with interest at 4% per annum, compounded annually up to July 1, 1946, and thereafter at 3% per annum, compounded annually from December 31st of the year in which the deductions are made; provided, that such interest shall not be credited after December 31, 1956, except that in the case of a teacher separated before he has completed 5 years of eligible service interest shall be credited to the date of separation or the end of the 90-day period beginning on November 17, 1979, whichever is earlier. These individual interest-bearing accounts shall be kept by the Custodian of Retirement Funds. After the end of the 90-day period beginning on November 17, 1979, any amounts deducted and withheld pursuant to this subsection shall be paid to the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Teachers' Retirement Fund established by § 1-713(a).

(b) Repealed.

(c) Amounts deducted and withheld from the annual salary of each teacher shall be:

(1) Picked up by the public schools of the District of Columbia, as described in section 414(h)(2) of the Internal Revenue Code;

(2) Deducted and withheld from the annual salary of the teachers as salary reduction contributions;

(3) Paid by the public schools of the District of Columbia to the Custodian of Retirement Funds, as defined in § 1-702(6); and

(4) Made a part of the teacher's annuity benefit.

(d) Notwithstanding any provisions of this part to the contrary, the amounts contributed under this section shall be fully (100%) vested.

(e) Notwithstanding any provisions of this part to the contrary, upon the employer's request, a contribution that was made by a mistake of fact shall be returned to the employer by the trustee within one year after the payment of the contribution. A portion of a contribution returned pursuant to this section shall be adjusted to reflect earnings or gains. Notwithstanding any provisions of this part to the contrary, the right or claim of a participant or beneficiary to an asset of the trust or a benefit under this part shall be subject to and limited by the provisions of this subsection.

(Aug. 7, 1946, 60 Stat. 875, ch. 779, § 1; Mar. 6, 1952, 66 Stat. 17, ch. 95,§ 1; Aug. 5, 1955, 69 Stat. 530, ch. 569, title V, § 21; June 4, 1957, 71 Stat. 46, Pub. L. 85-46, § 1; Dec. 29, 1967, 81 Stat. 747, Pub. L. 90-231, § 1(1); May 22, 1970, 84 Stat. 257, Pub. L. 91-263, § 1(d)(1); Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 123(b)(1)(A), 253(a)(1); Mar. 24, 1990, D.C. Law 8-97, § 4, 37 DCR 1046; Apr. 9, 1997, D.C. Law 11-218, § 4(a), 43 DCR 6172; Apr. 13, 2005, D.C. Law 15-354, § 55(a), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 60, 53 DCR 6794; May 1, 2013, D.C. Law 19-312, § 2(a), 60 DCR 3434.)

Section references. — This section is referenced in § 1-713, § 38-2021.04, § 38-2021.08, § 38-2023.14, and § 38-2041.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-312 deleted "purchase of annuity" from the section heading; repealed (b), relating to the purchase of annuities; and added (c), (d), and (e).

Emergency legislation.

For temporary amendment of section, see § 2(a) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

Section 2(a)(1) of D.C. Law 19-313 amended the heading by striking the phrase "; purchase of annuity". Section 2(a)(2) of D.C. Law 19-313 repealed subsection (b).

Section 2(a)(3) of D.C. Law 19-313 added new subsections (c), (d), and (e) to read as follows:

"(c) Amounts deducted and withheld from the annual salary of each teacher shall be:

"(1) Picked up by the public schools of the District of Columbia, as described in section 414(h)(2) of the Internal Revenue Code;

"(2) Deducted and withheld from the annual salary of the teachers as salary reduction contributions;

"(3) Paid by the public schools of the District of Columbia to the Custodian of Retirement Funds, as defined in section 102(6) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D. C. Official Code § 1-702(6)); and

"(4) Made a part of the teacher's annuity benefit.

"(d) Notwithstanding any provisions of this act to the contrary, the amounts contributed under this section shall be fully (100%) vested.

"(e) Notwithstanding any provisions of this act to the contrary, upon the employer's request, a contribution that was made by a mistake of fact shall be returned to the employer by the trustee within one year after the payment of the contribution. A portion of a contribution returned pursuant to this section shall be adjusted to reflect earnings or gains. Notwithstanding any provisions of this act to the contrary, the right or claim of a participant or beneficiary to an asset of the trust or a benefit under this act shall be subject to and limited by the provisions of this subsection."

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

For temporary (90 days) amendment of this section, see § 2(a) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-312 — Law 19-312, the "Retirement of Public-School Teachers Omnibus Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-1017. The Bill was adopted on first and second readings on December 4, 2012, and December 18, 2012, respectively. Signed by the Mayor on February 15, 2013, it was assigned Act No. 19-680 and transmitted to Congress for its review. D.C. Law 19-312 became effective on May 1, 2013.

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.03. Voluntary and involuntary retirement.

(a) Any teacher who completes 5 years of eligible service and who is separated from the service: (1) after becoming 55 years of age and completing 30 years of service; (2) after becoming 60 years of age and completing 20 years of service; (3) after becoming 62 years of age; or (4) in the case of any teacher hired on or after the first day of the first pay period which begins after October 29, 1996, after completing 30 years of service; is entitled to an annuity.

(b)(1) Any teacher who completes 5 years of eligible service and who is involuntarily separated from the service, except by removal for cause on charges of misconduct or delinquency, after: (1) completing 25 years of service; or (2) becoming 50 years of age and completing 20 years of service; is entitled to an annuity reduced by one sixth of 1% for each full month such teacher is under the age of 55 years at the date of his separation from the service.

(2) For the purposes of this subsection, the term:

(A) "Excessing" means the elimination of a teacher's position at a particular school, when such an elimination is not a reduction in force or abolishment, due to a:

(i) Decline in student enrollment;

(ii) Reduction in the local school budget;

(iii) Closing or consolidation;

(iv) Restructuring; or

(v) Change in the local school program.

(B) "Involuntarily separated" includes the excessing of a permanent status teacher, without regard to whether the teacher chose to reject options available to him or her, such as finding a placement elsewhere in the public schools of the District of Columbia.

(c) Repealed.

(c-1) A teacher who completes 5 years of eligible service shall be 100% vested.

(d)(1) The length of a teacher's service shall be computed in accordance with § 38-2021.08.

(2) The amount of an annuity authorized by this section shall be computed in accordance with § 38-2021.05.

(3) Each annuity authorized by this section shall commence on the day after the teacher is separated from the service and shall terminate on the date the teacher dies.

(e) Any teacher who completes 5 years of vested service may voluntarily retire from the service on or before December 31, 1980, after completing 20 years of service and shall be entitled to an annuity computed in accordance with subsection (b) of this section; provided, that the amortization payment to the District of Columbia Retirement Board for the District of Columbia Teachers' Retirement Fund shall be made from appropriations of the Board of Education; except that any teacher hired on or after the first day of the first pay period which begins after October 29, 1996, who completes 30 years of service shall be entitled to an annuity computed in accordance with § 38-2021.05.

(f)(1) In the event of a major reorganization, a major reduction in force, or a major transfer of functions in which a significant percentage of Board of Education employees will be separated or subject to an immediate reduction in the rate of basic pay or a furlough, the Board of Education is authorized to offer voluntary retirement to the following eligible teachers:

(A) Teachers who have completed 25 years of service; and

(B) Teachers who have reached 50 years of age and completed 20 years of service.

(2) Teachers who accept voluntary retirement under paragraph (1) of this subsection shall:

(A) Receive an annuity reduced by ⅙ of 1% for each full month such teacher is under the age of 55 years at the date of his or her separation from the service; and

(B) Be eligible for the early out retirement incentive program established by § 38-2021.03.

(Aug. 7, 1946, 60 Stat. 876, ch. 779, § 3; Mar. 6, 1952, 66 Stat. 17, ch. 95,§ 2; June 4, 1957, 71 Stat. 46, Pub. L. 85-46, § 1; Dec. 29, 1967, 81 Stat. 747, Pub. L. 90-231, § 1(2); Mar. 4, 1981, D.C. Law 3-128, § 9, 28 DCR 246; Mar. 5, 1981, D.C. Law 3-133, § 5, 27 DCR 4417; May 21, 1988, D.C. Law 7-111, § 2, 35 DCR 2674; Sept. 26, 1995, D.C. Law 11-52, § 902, 42 DCR 3684; Apr. 9, 1997, D.C. Law 11-218, § 4(b), 43 DCR 6172; May 1, 2013, D.C. Law 19-312, § 2(b), 60 DCR 3434; Sept. 19, 2013, D.C. Law 20-16, § 2, 60 DCR 9837.)

Section references. — This section is referenced in § 38-2021.04, § 38-2021.05, and § 38-2021.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-312 added (c-1).

The 2013 amendment by D.C. Law 20-16 added the (1) designation to the existing text of (b); and added (b)(2).

Temporary Amendment of Section. — Section 2(b) of D.C. Law 19-313 added a new subsection (c-1) to read as follows:

"(c-1) A teacher who completes 5 years of eligible service shall be 100% vested."

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary addition of (c), see § 2(b) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

For temporary (90 days) amendment of this section, see § 2(b) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

For temporary (90 days) amendment of this section, see § 2 of the Teachers' Retirement Emergency Act of 2013 (D.C. Act 20-72, May 16, 2013, 60 DCR 7243, 20 DCSTAT 1421).

For temporary (90 days) amendment of this section, see § 2 of the Teachers' Retirement Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-146, July 31, 2013, 60 DCR 11807, 20 DCSTAT 1998).

Legislative history of Law 19-312. — See note to § 38-2021.01.

Legislative history of Law 20-16. — Law 20-16, the "Teachers' Retirement Amendment Act of 2013", was introduced in Council and assigned Bill No. 20-64. The Bill was adopted on first and second readings on May 7, 2013 and June 4, 2013, respectively. Signed by the Mayor on June 24, 2013, it was assigned Act No. 20-93 and transmitted to Congress for its review. D.C. Law 20-16 became effective on September 19, 2013.

§ 38-2021.04. Disability retirement.

(a) Any teacher who completes 5 years of eligible service, and who, before becoming eligible for retirement under the conditions defined in §§ 38-2021.01 to 38-2021.03, acquires a physical or mental disability and is incapable of

satisfactorily performing the duties of his position by reason of disease or injury not due to vicious habits, intemperance, or willful misconduct on the part of the teacher, shall upon his own application or upon order of the Board of Education as provided later in this section be retired on an annuity computed in accordance with the provisions of §§ 38-2021.05 and 38-2021.06 and beginning on the day after his pay ceases and he meets the service and disability requirements for title to annuity. Proof of freedom from vicious habits, intemperance, or willful misconduct for a period of more than 5 years next prior to having a disability for useful and efficient service shall not be required in any case. No claim shall be allowed under the provisions of this section unless the application for retirement shall have been executed prior to the applicant's separation from the service or within 6 months thereafter. No teacher shall be retired under the provisions of this section unless examined under the direction of the Director of the Department of Human Services of the District of Columbia, and as a result of said examination, in his judgment, or in the judgment of the Superintendent of Schools concurred in by two thirds of the members of the Board of Education, shall have been found to be physically or mentally incapacitated for efficient service.

(b) Every annuitant retired under the provisions of this section, unless the disability for which retired be permanent in character, shall at the expiration of one year from the date of such retirement and annually thereafter, until reaching retirement age as defined in § 38-2021.03, be examined under the direction of the Director of the Department of Human Services of the District of Columbia in order to ascertain the nature and degree of the annuitant's disability, if any. If an annuitant shall recover before reaching retirement age he shall be reappointed by the Board of Education in accordance with such rules and regulations as the said Board may prescribe to the first position, equal or similar to any position in the public schools occupied by the annuitant before retirement, which becomes vacant after the date the Board of Education receives written notification from the Director of the Department of Human Services of the District of Columbia that the annuitant has recovered and is able to discharge his duties as a teacher in the public schools of the District of Columbia. Payment of the annuity shall be continued until the date of reappointment by the Board of Education. In the event that the annuitant refuses to accept the employment prescribed in this section no annuity shall be paid after the date of such refusal. Should the annuitant fail to appear for examination as required under this section, payment of the annuity shall be suspended until continuance of the disability shall have been satisfactorily established. Upon written recommendation of the Superintendent of Schools, the Board of Education may order or direct at any time such medical or other examination as it shall deem necessary to determine the facts relative to the nature and degree of disability of any teacher retired on an annuity under this section.

(b-1) Any initiation, termination, or change of annuity payments made under subsection (b) of this section shall be subject to review and final determination by the District of Columbia Retirement Board.

(c) Notwithstanding the foregoing provisions of this section, if during any calendar year an annuitant who is receiving a disability annuity under this

section and who has not reached retirement age (as defined in § 38-2021.03) receives income from wages or self-employment, or both, in an amount not less then 80% of the current rate of pay of the position occupied by the annuitant before retirement, the annuity of such annuitant shall be terminated by the District of Columbia Retirement Board effective January 1st of the first calendar year after such calendar year, except that this sentence shall not apply with respect to income received during the year in which the annuitant retired. The annuity of any annuitant whose annuity is terminated under the preceding sentence shall be restored, at the rate which would have been in effect but for such termination, effective January 1st of any year following a year during which the amount of such annuitant's income from wages and self-employment is less than 80% of the current rate of pay of the position occupied by the annuitant before retirement, or effective immediately if the District of Columbia Retirement Board determines that, outside of normal fluctuations in such annuitant's income, such annuitant's income is reduced to a level which on an annual basis is less than 80% of such current rate of pay.

(d) In cases where the annuity is discontinued under the provisions of this section, as much of the annuity payments as would have been provided by an annuity whose actuarial value at the time of retirement was equal to the contributions accumulated with interest shall be charged against the teacher's individual account and, unless the teacher shall become reemployed in a position covered under the Teachers' Retirement Program established pursuant to the Chapter 9 of Title 1 [§ 1-901.01 et seq.], the teacher shall be considered as having been separated from the service for other than retirement purposes and entitled to the benefits set forth in § 38-2021.09.

(Aug. 7, 1946, 60 Stat. 877, ch. 779, § 4; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1; Mar. 6, 1952, 66 Stat. 17, ch. 95, § 3; June 4, 1957, 71 Stat. 46, Pub. L. 85-46, § 1; Dec. 29, 1967, 81 Stat. 747, Pub. L. 90-231, § 1(3); Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 256; Apr. 13, 2005, D.C. Law 15-354, § 55(b), 52 DCR 2638; Apr. 24, 2007, D.C. Law 16-305, § 56, 53 DCR 6198; May 1, 2013, D.C. Law 19-312, § 2(c), 60 DCR 3434.)

Section references. — This section is referenced in § 38-2021.05, § 38-2021.06, § 38-2021.09, § 38-2021.27, and § 38-2023.11.

Effect of amendments.

The 2013 amendment by D.C. Law 19-312 rewrote (d).

Temporary Amendment of Section. — Section 2(c) of D.C. Law 19-313 amended (d) to read as follows:

"(d) In cases where the annuity is discontinued under the provisions of this section, as much of the annuity payments as would have been provided by an annuity whose actuarial value at the time of retirement was equal to the contributions accumulated with interest shall be charged against the teacher's individual account and, unless the teacher shall become reemployed in a position covered under the Teachers' Retirement Program established pursuant to the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 et seq.), the teacher shall be considered as having been separated from the service for other than retirement purposes and entitled to the benefits set forth in section 9."

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of (d), see § 2(c) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

For temporary (90 days) amendment of this section, see § 2(c) of the Retirement of Public-School Teachers Omnibus Congressional Re-

view Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.05. Computation of annuity; options.

(a) Except as otherwise provided in this part, every teacher who shall be retired under the provisions of § 38-2021.03 or § 38-2021.04 shall receive an annuity composed of: (1) the larger of: (A) one and one-half per centum of the average salary as defined in § 38-2021.13, multiplied by so much of the total service as does not exceed 5 years; or (B) one per centum of the average salary, plus $25, multiplied by so much of the total service as does not exceed 5 years; plus (2) the larger of: (A) one and three-quarters per centum of the average salary multiplied by so much of the total service as exceeds 5 years but does not exceed 10 years; or (B) one per centum of the average salary, plus $25, multiplied by so much of the total service as exceeds 5 years but does not exceed 10 years; plus (3) the larger of: (A) two per centum of the average salary multiplied by so much of the total service as exceeds 10 years; or (B) one per centum of the average salary, plus $25, multiplied by so much of the total service as exceeds 10 years. Notwithstanding the preceding sentence, every teacher retired under the provisions of § 38-2021.03 or § 38-2021.05 who is hired on or after the first day of the first pay period that begins after October 29, 1996 shall receive an annuity equal to 2% of the average salary as defined in § 38-2021.13 multiplied by the number of years of the teacher's creditable service. Each annuity is stated as an annual amount, one twelfth of which, fixed at the nearest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued. Annuities payable to any retired teacher who has become eligible for retirement because of age as defined in § 38-2021.03 shall be payable during the lifetime of the annuitant. Annuities payable to any teacher retired on account of disability shall be subject to the conditions set forth under § 38-2021.04.

(b) Any teacher retiring under the provisions of § 38-2021.03 or § 38-2021.04 may, at the time of retirement, elect to receive in lieu of the life annuity described herein 1 of the following:

(1) A reduced annuity and an annuity after death payable to the surviving spouse or domestic partner of such teacher. The life annuity of a teacher making such election, or any portion of such annuity designated by the teacher in writing for such purposes at the time of retirement, shall be reduced by 2½% of so much thereof as does not exceed $3,600 and by 10% of so much thereof as exceeds $3,600. The spouse or domestic partner of a teacher making such election shall be entitled to an annuity equal to 55% of such life annuity, or designated portion thereof, except that if a retired teacher who has elected a reduced annuity as provided in this paragraph or in subsection (d) of this section dies and is survived by a spouse or domestic partner whom he or she married or entered into a domestic partnership with after retirement, such spouse or domestic partner is entitled to an annuity in an amount which would have been paid had the teacher been married to, or in a domestic partnership

with, the spouse or domestic partner at the time of retirement, but only if: (A) such spouse or domestic partner was married to, or in a domestic partnership with, such individual for at least 2 years immediately preceding the teacher's death, or is the mother or father of issue of such marriage or domestic partnership; and (B) such spouse or domestic partner elects this annuity instead of any other survivor benefit to which he or she may be entitled under this part or another retirement system for employees of the federal or District government. The annuity of a spouse or domestic partner entitled to an annuity under this paragraph shall begin on the day after the retiree dies. Such annuity and any right thereto shall terminate on the last day of the month before: (A) the spouse or domestic partner dies; or (B) the spouse or domestic partner remarries or enters into a domestic partnership before becoming 55 years of age. In the case of a surviving spouse or domestic partner whose annuity under this paragraph is terminated because of remarriage or entry into a domestic partnership before becoming 55 years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, or the day the domestic partnership is terminated in accordance with § 32-702(d), if:

(i) The surviving spouse or domestic partner elects to receive the annuity which was terminated instead of a survivor benefit to which the surviving spouse or domestic partner may be entitled, under this part or another retirement system for employees of the federal or District government, by reason of the remarriage or entry into a domestic partnership; and

(ii) Any lump sum paid on termination of the annuity is repaid to the Custodian of Retirement Funds (as defined in § 1-702(6) for deposit in the District of Columbia Teachers' Retirement Fund established by § 1-713(a).

(2) If unmarried, not in a domestic partnership, and in good health, a reduced annuity payable to him during his life, and an annuity after his death payable to a survivor annuitant having an insurable interest in such teacher, duly designated in writing and filed with the District of Columbia Retirement Board at the time of retirement, during the life of such survivor annuitant equal to 55% of such reduced annuity. The annuity of the survivor annuitant shall commence on the day after the retired teacher dies, and such annuity and any right thereto shall terminate on the last day of the month before the death of the survivor annuitant. The annuity hereunder payable to the teacher shall be 90% of the life annuity otherwise payable if the survivor annuitant is the same age or older than the annuitant, or is less than 5 years younger than the annuitant; 85% if the survivor annuitant is 5 but less than 10 years younger; 80% if the survivor annuitant is 10 but less than 15 years younger; 75% if the survivor annuitant is 15 but less than 20 years younger; 70% if the survivor annuitant is 20 but less than 25 years younger; and 60% if the survivor annuitant is 25 or more years younger. No such election shall be valid until the retiring teacher shall have satisfactorily passed a physical examination under the direction of the Director of the Department of Human Services of the District of Columbia, as prescribed by the Board of Education. No person shall be eligible to receive an annuity under subsection (b) of § 38-2021.09 based upon the service of the same teacher covering the same period of time.

(3) A reduced annuity of equivalent value providing for a life-insurance benefit payable in a lump sum at the time of the annuitant's death. The face amount of such life insurance may be in any amount which the retiring teacher shall designate at the time of retirement but shall not exceed his contributions accumulated with interest to the date of retirement. Payment of such insurance shall be made in accordance with the provisions of § 38-2021.10. Any annuitant who elects to receive the reduced annuity with fixed life-insurance benefits may reconvert the value of the life insurance to an additional annuity of equivalent value on any anniversary of the retirement date of said annuitant prior to reaching age 70.

(4) In the event an individual designated as a surviving spouse or domestic partner or as a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.

(c)(1)(A) The annuity of any person who now or hereafter is receiving or entitled to receive an annuity from the Teachers' Retirement and Annuity Fund shall be increased, effective on October 1, 1955, or on the commencing date of the annuity, whichever is later, in accordance with the following schedule:

If annuity commences between	Annuity not in excess of $1,500 shall be increased by	Annuity in excess of $1,500 shall be increased by
August 20, 1920, and June 30, 1955	12 per centum ..	8 per centum
July 1, 1955, and December 31, 1955 . .	10 per centum ..	7 per centum
January 1, 1956, and June 30, 1956	8 per centum ...	6 per centum
July 1, 1956, and December 31, 1956 . .	6 per centum ...	4 per centum
January 1, 1957, and June 30, 1957	4 per centum ...	2 per centum
July 1, 1957, and December 31, 1957 . .	2 per centum ...	1 per centum

(B) Such increase in annuity shall not exceed the sum necessary to increase such annuity, exclusive of annuity purchased by voluntary contributions under this section, to $4,104. The monthly installment of each annuity so increased shall be fixed at the nearest dollar.

(2) The increases provided by this subsection, when added to the annuities of retired employees, shall not operate to increase the annuities of their survivors, except that the annuity of any such survivor who becomes entitled to annuity shall be increased by the per centum provided in paragraph (1) of this subsection appropriate to the commencing date of such survivors annuity.

(d) A teacher who is unmarried and not in a domestic partnership at the time of retiring under a provision of law which permits election of a reduced annuity with a survivor annuity payable to his spouse or domestic partner and who later marries or enters into a domestic partnership may irrevocably elect, in a signed writing filed with the District of Columbia Retirement Board within one year after he or she marries or enters into a domestic partnership, a

reduction in his or her current annuity and an annuity after death payable to his or her surviving spouse or domestic partner as provided in paragraph (1) of subsection (b) of this section. The reduced annuity is effective the first day of the month after such election is received by the District of Columbia Retirement Board. The election voids prospectively any election previously made under paragraph (2) or paragraph (3) of subsection (b) of this section.

(e)(1) Notwithstanding any other provision of this part, other than this subsection, the monthly rate of annuity payable under this section shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act [42 U.S.C. § 401 et seq.].

(2) Notwithstanding any other provisions of this part, other than this subsection, the monthly rate of annuity payable under this section to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act [42 U.S.C. § 401 et seq.], or 3 times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States, or the District of Columbia, an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act [42 U.S.C. § 401 et seq.], a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act [42 U.S.C. § 401 et seq.].

(4) An annuity payable from the Teachers' Retirement and Annuity Fund to a former teacher, which is based on a separation occurring prior to October 20, 1969, is increased by $240.

(5) In lieu of any increase based on an increase under paragraph (4) of this subsection, an annuity payable from the Teachers' Retirement and Annuity Fund to the surviving spouse of a teacher or annuitant, which is based on a separation occurring prior to October 20, 1969, shall be increased by $132.

(6) The monthly rate of an annuity resulting from an increase under paragraph (4) or (5) of this subsection shall be considered as the monthly rate of annuity payable under subsection (a) of this section for purposes of computing the minimum annuity under this subsection.

(f) Each year, the District of Columbia Retirement Board shall set the applicable interest rate, mortality table, and cost-of-living factor to be used in the determination of actuarial equivalents or for other pertinent benefit calculations under the provisions of this part.

(Aug. 7, 1946, 60 Stat. 878, ch. 779, § 5; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1; Mar. 6, 1952, 66 Stat. 17, ch. 95, § 4; Aug. 5, 1955, 69 Stat. 530, ch. 569, title V, § 23; July 2, 1956, 70 Stat. 487, ch. 497, § 1; June 4, 1957, 71 Stat. 46, Pub. L. 85-46, § 1; Oct. 24, 1962, 76 Stat. 1237, Pub. L. 87-881, title II, § 203(a);

Dec. 29, 1967, 81 Stat. 748, Pub. L. 90-231, § 1(4); May 22, 1970, 84 Stat. 258, Pub. L. 91-263, § 1(f); Oct. 21, 1972, 86 Stat. 1012, Pub. L. 92-518, title II, § 201(1), (2); Sept. 3, 1974, 88 Stat. 1050, Pub. L. 93-407, title III, § 301; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 123(b)(1)(c), 255(a); Apr. 9, 1997, D.C. Law 11-218, § 4(c), 43 DCR 6172; Apr. 13, 2005, D.C. Law 15-354, § 55(c), 52 DCR 2638; Sept. 12, 2008, D.C. Law 17-231, § 32(a), 55 DCR 6758; May 1, 2013, D.C. Law 19-301, § 3(a), 60 DCR 2310; May 1, 2013, D.C. Law 19-312, § 2(d), 60 DCR 3434.)

Section references. — This section is referenced in § 38-2021.03, § 38-2021.04, § 38-2021.06, § 38-2021.08, § 38-2021.09, § 38-2021.19, and § 38-2023.12.

Effect of amendments.

The 2013 amendment by D.C. Law 19-301, in (b)(1), substituted "(B) such spouse or domestic partner elects" for "(B) such spouse or domestic partnership elects" and twice substituted "55 years" for "60 years".

The 2013 amendment by D.C. Law 19-312 added (f).

Temporary Amendment of Section. — Section 2(d) of D.C. Law 19-313 added a new subsection (f) to read as follows:

"(f) Each year, the District of Columbia Retirement Board shall set the applicable interest rate, mortality table, and cost-of-living factor to be used in the determination of actuarial equivalents or for other pertinent benefit calculations under the provisions of this act."

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary addition of (f), see § 2(d) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

For temporary (90 days) amendment of this section, see § 2(d) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-301. — Law 19-301, the "Equity in Survivor Benefits Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-570. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-650 and transmitted to Congress for its review. D.C. Law 19-301 became effective on May 1, 2013.

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.07. [Omitted].

Emergency legislation. — For temporary addition of the Act of Aug. 7, 1946, ch. 779, § 7a, concerning required minimum distributions, see § 2(e) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

§ 38-2021.07a. Required minimum distributions.

(a) Distributions shall begin no later than the teacher's required beginning date, as defined in section 401(a)(9) of the Internal Revenue Code, and shall be made in accordance with all other requirements of section 401(a)(9) of the Internal Revenue Code. The provisions of this section shall apply for the purposes of determining minimum required distributions under section 401(a)(9) of the Internal Revenue Code and take precedence over any inconsistent provisions of this part; provided, that these provisions are intended solely to reflect the requirements of section 401(a)(9) of the Internal Revenue Code and accompanying Treasury regulations and are not intended to provide or expand, and shall not be construed as providing or expanding, a benefit or distribution option not otherwise expressly provided for under the terms of this part. The provisions of this section shall apply only to the extent required

under section 401(a)(9) of the Internal Revenue Code as applied to a governmental plan, and if any special rules for governmental plans are not set forth in this section, these special rules are incorporated by reference and shall for all purposes be deemed a part of this part.

(b)(1) The teacher's entire interest shall be distributed, or begin to be distributed, to the teacher no later than April 1 following the later of the calendar year in which the teacher attains age 70½ or the calendar year in which the teacher retires or terminates employment (the "required beginning date").

(2) If the teacher dies before distributions begin, the teacher's entire interest shall be distributed, or shall begin to be distributed, no later than as follows:

(A) If the teacher's surviving spouse is the sole designated beneficiary, distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the teacher died, or by December 31 of the calendar year in which the teacher would have attained age 70½, if later;

(B) If the teacher's surviving spouse is not the sole designated beneficiary, distributions to the designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the teacher died;

(C) If there is no designated beneficiary as of September 30 of the year following the year of the teacher's death, the teacher's entire interest shall be distributed by December 31 of the calendar year of the 5th anniversary of the teacher's death;

(D) If the teacher's surviving spouse is the sole designated beneficiary and the surviving spouse dies after the teacher but before distributions to the surviving spouse begin, subparagraph (A) of this paragraph shall not apply, and subparagraphs (B) and (C) of this paragraph shall apply as if the surviving spouse were the teacher. For the purposes of this paragraph and subsection (d) of this section, distributions are considered to begin on the teacher's required beginning date or, if this subparagraph applies, the date distributions to the surviving spouse are required to begin under subparagraph (A) of this paragraph. If annuity payments to the teacher irrevocably commence before the teacher's required beginning date or to the teacher's surviving spouse before the date distributions to the surviving spouse are required to begin under subparagraph (A) of this paragraph, the date distributions are considered to begin is the date distributions actually commence.

(3) Unless the teacher's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution, calendar year distributions shall be made in accordance with subsections (c) and (d) of this section. If the teacher's interest is distributed in the form of an annuity purchased from an insurance company, distributions under the annuity shall be made in accordance with the requirements of section 401(a)(9) of the Internal Revenue Code and applicable Treasury regulations. A part of the teacher's interest that is in the form of an individual account described in section 414(k) of the

Internal Revenue Code shall be distributed in a manner satisfying the requirements of section 401(a)(9) of the Internal Revenue Code and the Treasury regulations that apply to individual accounts.

(c)(1) The amount of the annuity is to be determined each year.

(2) If the teacher's interest is paid in the form of annuity distributions, payments under the annuity shall satisfy the following requirements:

(A) The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

(B) Payments shall either be non-increasing or increase only as follows:

(i) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index based on prices of all items (the CPI-W) and issued by the Bureau of Labor Statistics;

(ii) To provide cash refunds of employee contributions upon the teacher's death;

(iii) To pay increased benefits that result from an amendment to this part.

(3) The amount that must be distributed on or before the teacher's required beginning date or, if the teacher dies before distributions begin, the date distributions are required to begin under subsection (b)(2)(A) or (B) of this section, is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received (for example, bi-monthly, monthly, semi-annually, or annually). The teacher's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the teacher's required beginning date.

(4) Additional benefits accruing to the teacher in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which the amount accrues.

(d) Amounts payable if a teacher dies before distribution begins are subject to the following requirements:

(1) If the teacher dies before the date of distribution of his or her interest begins and there is a designated beneficiary, the teacher's entire interest shall be distributed, beginning no later than the time described in subsection (b)(2)(A) or (B) of this section, over the life of the designated beneficiary not exceeding either of the following:

(A) Unless the benefit commenced is before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the teacher's death; or

(B) If the benefit commenced before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of his or her birthday in the calendar year that begins before benefits commence;

(2) If the teacher dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the

teacher's death, distribution of the teacher's entire interest shall be completed by December 31 of the calendar year containing the 5th anniversary of the teacher's death; or

(3) If the teacher dies before the date distribution of the teacher's interest begins, the teacher's surviving spouse is the teacher's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection shall apply as if the surviving spouse were the teacher, except that the time by which distributions must begin shall be determined without regard to subsection (b)(2)(A) of this section.

(Aug. 7, 1946, 60 Stat. 875, ch. 779, Pub. L. 79-624, § 7a, as added May 1, 2013, D.C. Law 19-312, § 2(e), 60 DCR 3434.)

Section references. — This section is referenced in § 38-2021.27.

Effect of amendments. — The 2013 amendment by D.C. Law 19-312 added this section.

Temporary Addition of Section. — Section 2(e) of D.C. Law 19-313 added this section.

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 days) addition of this section, see § 2(e) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.08. Basis for determining annuity amount.

(a) The years of service which form the basis for determining the amount of the annuity provided in § 38-2021.05(a) shall be computed from the date of original appointment as a teacher in the public schools of the District of Columbia, including so much of any authorized leaves of absence without pay as does not exceed 6 months in the aggregate in a fiscal year, plus service credit that may be allowed under the provisions of this section. A teacher or former teacher who returns to duty after a period of separation is deemed, for the purpose of this section, to have been on a leave of absence without pay for that part of the period in which he or she was receiving benefits under subchapter I of 5 U.S.C. Chapter 81, or any earlier statute on which the subchapter is based. In computing an annuity under § 38-2021.05(a), the total service of a teacher shall include days of unused sick leave credited to him. No deposit may be required for days of unused sick leave included in a teacher's total service under the preceding sentence. Days of unused sick leave shall not be counted in determining a teacher's average salary or his eligibility for an annuity. In computing the length of service of retiring teachers credit may be given, year for year, for:

(1) Public school service or its equivalent outside the District of Columbia but not to exceed 10 years;

(2) Continuous temporary service in the public schools of the District immediately before probationary appointment;

(3) Service in the District government or the government of the United States allowable under subchapter III of 5 U.S.C. § 83;

(4) Periods of honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States (but not the National

Guard except when ordered to active duty in the service of the United States) before the date of the separation upon which title to annuity is based; provided, that if a teacher is awarded retired pay on account of military service, the teacher's military service shall not be included unless the retired pay is awarded on account of a service-connected disability:

(A) Incurred in combat with an enemy of the United States; or

(B) Caused by an instrumentality of war and incurred in the line of duty during an enlistment or employment as provided in Veterans Regulation No. 1(a), part 1, paragraph 1, or is awarded under 10 U.S.C. § 12736;

(5) Educational leaves of absence with part pay authorized by the Board of Education in accordance with §§ 1-612.01, 1-612.02, and 1-612.03; and

(6) Continuous temporary service as an employee of a cafeteria or lunchroom operated in the public school buildings of the District of Columbia during a period before the date on which the cafeteria or lunchroom is placed under the Office of Central Management, Department of Food Services, District of Columbia, and immediately before appointment as a teacher in the public schools of the District of Columbia; provided, that portion of the annuity which results from credit for service allowable under paragraphs (1) and (3) of this subsection shall be reduced by the amount of any annuity that the retired teacher is entitled to receive under a federal, state, or municipal retirement or pension system with respect to the service, except that that portion of the annuity after reduction shall not be less than the annuity purchasable with the deposit that the teacher is required to make under the provisions of this section in order to obtain credit for such service; provided further, that no credit for service prescribed in this section, with the exception of periods of honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States and all educational leaves of absence with part pay authorized by the Board of Education in accordance with §§ 1-612.01, 1-612.02, and 1-612.03, shall be given to a teacher until the teacher shall have deposited to the credit of the District of Columbia Teachers' Retirement Fund a sum equal to:

(A) The accumulated contributions that the teacher would have had credited to the teacher's individual account if the service had been rendered on active duty in the public schools of the District of Columbia, the contributions to be based on the average annual salary of the class to which the teacher is appointed; and

(B) Interest thereon computed in accordance with § 38-2021.24(b); provided further, that contributions to the retirement fund made by a teacher on education leave with part pay shall be determined in accordance with the provisions of § 38-2021.01, but otherwise no provision of this part shall be interpreted to deprive a teacher employed by the Board of Education of any rights or benefits allowable under §§ 1-612.01, 1-612.02, and 1-612.03. If the teacher so elects, the teacher may deposit the required sum in the District of Columbia Teachers' Retirement Fund in monthly installments, upon making a claim with the District of Columbia Retirement Board. Notwithstanding any other provision to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with section

414(u) of the Internal Revenue Code. Except as otherwise provided in this subsection, this section shall not be construed to allow any teacher more than one year's credit for all services rendered in any one fiscal year.

(b) A teacher who during the period of any war, or of any national emergency as proclaimed by the President or declared by the Congress, has left or leaves his position to enter the military service, as defined in this section, shall not be considered, for the purposes of this part, as separated from his teaching position by reason of such military service, unless he shall apply for and receive a lump-sum benefit under this part, except that such teacher shall not be considered as retaining his teaching position beyond 6 months after June 4, 1957, or the expiration of 5 years of such military service, whichever is later.

(c) Nothing in this part shall affect the right of a teacher to retired pay, pension, or compensation in addition to the annuity herein provided.

(d) Notwithstanding the provisions of this section, any teacher who is entitled to purchase service credit under the provisions of § 38-1970(d) shall purchase such credit based on the salary received from the Board of Higher Education during the period of service to be credited.

(Aug. 7, 1946, 60 Stat. 879, ch. 779, § 8; Mar. 6, 1952, 66 Stat. 19, ch. 95,§ 7; Aug. 5, 1955, 69 Stat. 536, ch. 575, § 2; June 4, 1957, 71 Stat. 47, Pub. L. 85-46, § 1; Dec. 29, 1967, 81 Stat. 748, Pub. L. 90-231, § 1(5); May 22, 1970, 84 Stat. 257, Pub. L. 91-263, § 1(b); Oct. 21, 1972, 86 Stat. 1013, Pub. L. 92-518, title II, §§ 201(3), 202(a)(1), 203(b); Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 253(a)(3); May 10, 1989, D.C. Law 7-231, § 34(a), 36 DCR 492; Apr. 13, 2005, D.C. Law 15-354, § 55(d), 52; May 1, 2013, D.C. Law 19-312, § 2(f), 60 DCR 3434.)

Section references. — This section is referenced in § 38-2021.03, § 38-2021.27, and § 38-2023.14.

Effect of amendments.

The 2013 amendment by D.C. Law 19-312 rewrote (a).

Temporary Amendment of Section. — Section 2(f) of D.C. Law 19-313 amended subsection (a) to read as follows:

"(a) The years of service which form the basis for determining the amount of the annuity provided in section 5(a) shall be computed from the date of original appointment as a teacher in the public schools of the District of Columbia, including so much of any authorized leaves of absence without pay as does not exceed 6 months in the aggregate in a fiscal year, plus service credit that may be allowed under the provisions of this section. A teacher or former teacher who returns to duty after a period of separation is deemed, for the purpose of this section, to have been on a leave of absence without pay for that part of the period in which he or she was receiving benefits under subchapter I of 5 U.S.C. Chapter 81, or any earlier statute on which the subchapter is based. In computing an annuity under section 5(a), the total service of a teacher shall include days of unused sick leave credited to him. No deposit may be required for days of unused sick leave included in a teacher's total service under the preceding sentence. Days of unused sick leave shall not be counted in determining a teacher's average salary or his eligibility for an annuity. In computing the length of service of retiring teachers credit may be given, year for year, for:

"(1) Public school service or its equivalent outside the District of Columbia but not to exceed 10 years;

"(2) Continuous temporary service in the public schools of the District immediately before probationary appointment;

"(3) Service in the District government or the government of the United States allowable under subchapter III of 5 U.S.C. § 83;

"(4) Periods of honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States (but not the National Guard except when ordered to active duty in the service of the United States) before the date of the separation upon which title to annuity is based; provided, that if a teacher is awarded retired pay on account of military service, the teacher's military service shall not be included unless the retired pay is awarded on account of a service-connected disability:

"(A) Incurred in combat with an enemy of the United States; or

"(B) Caused by an instrumentality of war and incurred in the line of duty during an enlistment or employment as provided in Veterans Regulation No. 1(a), part 1, paragraph 1, or is awarded under 10 U.S.C. § 12736;

"(5) Educational leaves of absence with part pay authorized by the Board of Education in accordance with sections 1201, 1202, and 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-612.01, 1-612.02, and 1-612.03); and

"(6) Continuous temporary service as an employee of a cafeteria or lunchroom operated in the public school buildings of the District of Columbia during a period before the date on which the cafeteria or lunchroom is placed under the Office of Central Management, Department of Food Services, District of Columbia, and immediately before appointment as a teacher in the public schools of the District of Columbia; provided, that portion of the annuity which results from credit for service allowable under paragraphs (1) and (3) of this subsection shall be reduced by the amount of any annuity that the retired teacher is entitled to receive under a federal, state, or municipal retirement or pension system with respect to the service, except that that portion of the annuity after reduction shall not be less than the annuity purchasable with the deposit that the teacher is required to make under the provisions of this section in order to obtain credit for such service; provided further, that no credit for service prescribed in this section, with the exception of periods of honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States and all educational leaves of absence with part pay authorized by the Board of Education in accordance with sections 1201, 1202, and 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective October 1, 1987 (D.C. Law 2-139; D.C. Official Code § 1-612.01, 1-612.02, 1-612.03), shall be given to a teacher until the teacher shall have deposited to the credit of the District of Columbia Teachers' Retirement Fund a sum equal to:

"(A) The accumulated contributions that the teacher would have had credited to the teacher's individual account if the service had been rendered on active duty in the public schools of the District of Columbia, the contributions to be based on the average annual salary of the class to which the teacher is appointed; and

"(B) Interest thereon computed in accordance with section 24(b); provided further, that contributions to the retirement fund made by a teacher on education leave with part pay shall be determined in accordance with the provisions of section 1, but otherwise no provision of this act shall be interpreted to deprive a teacher employed by the Board of Education of any rights or benefits allowable under sections 1201, 1202, and 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-612.01, 1-612.02, 1-612.03). If the teacher so elects, the teacher may deposit the required sum in the District of Columbia Teachers' Retirement Fund in monthly installments, upon making a claim with the District of Columbia Retirement Board. Notwithstanding any other provision to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Internal Revenue Code. Except as otherwise provided in this subsection, this section shall not be construed to allow any teacher more than one year's credit for all services rendered in any one fiscal year."

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of (a), see § 2(f) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

For temporary (90 days) amendment of this section, see § 2(f) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.09. Deferred annuity; annuity to survivors.

(a) Should a teacher to whom this part applies, after completing 5 years of eligible service and before becoming eligible for retirement, become separated from the service, the teacher may elect to receive a deferred annuity, computed as provided in § 38-2021.05, beginning at the age of 62 years and terminating on the date of the teacher's death; provided, that a teacher who becomes separated from the public schools of the District of Columbia for other than retirement purposes and who does not elect to receive a deferred annuity as

provided for in this section shall receive as soon as practicable after separation the refund of deductions, deposits, or redeposits; provided further, that no teacher who shall withdraw the amount of the teacher's deductions, deposits, or redeposits under this section shall, after reinstatement, be entitled to credit for previous service unless the teacher shall repay to the Custodian of Retirement Funds as defined in § 1-702(6), for deposit in the District of Columbia Teachers' Retirement Fund, established by § 1-713(a), the amount withdrawn by him (including the interest thereon) plus interest computed in accordance with § 38-2021.24(c); and provided further, that the amount required to be so deposited may be paid by the teacher, if he so elects, in any number of monthly installments, not exceeding 100.

(b)(1) In the event any teacher to whom this part applies shall die subsequent to March 6, 1952, after completing at least 18 months of eligible service and is survived by a spouse or domestic partner, such surviving spouse or domestic partner shall be paid an annuity beginning the day after the teacher dies, equal to 55% of the amount of an annuity computed as provided in subsection (a) of § 38-2021.05 with respect to such teacher, except that in the computation of the annuity under such subsection the annuity of the teacher shall be at least the smaller of: (A) forty per centum of his average salary; or (B) the sum obtained under such subsection after increasing his eligible service of the type last performed by the period elapsing between the date of death and the date he would have become 55 years of age. Such annuity and any right thereto shall terminate on the last day of the month before: (A) the surviving spouse or domestic partner dies; or (B) the surviving spouse or domestic partner remarries or enters a new domestic partnership before becoming 55 years of age. In the case of a surviving spouse or domestic partner whose annuity under this paragraph is terminated because of remarriage or entry into a new domestic partnership before becoming 55 years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, or the new domestic partnership is terminated in accordance with § 32-702(d), if:

(i) The surviving spouse or domestic partner elects to receive the annuity which was terminated instead of a survivor benefit to which the surviving spouse or domestic partner may be entitled, under this part or another retirement system for employees of the federal or District government, by reason of the remarriage or new domestic partnership; and

(ii) Any lump sum paid on termination of the annuity is repaid to the Custodian of Retirement Funds (as defined in § 1-702(6), for deposit in the District of Columbia Teachers' Retirement Fund established by § 1-713(a).

(2) If any teacher to whom this part applies shall die after completing at least 18 months of eligible service or after having retired under the provisions of § 38-2021.03 or § 38-2021.04 and is survived by a spouse or domestic partner, each surviving child shall be paid an annuity equal to the smallest of: (A) sixty per centum of the teacher's average salary divided by the number of children; (B) $ 900; or (C) $ 2,700 divided by the number of children. If such teacher is not survived by a spouse or domestic partner, each surviving child shall be paid an annuity equal to the smallest of: (A) seventy-five per centum

of the teacher's average salary divided by the number of children; (B) $ 1,080; or (C) $ 3,240 divided by the number of children. The child's annuity shall commence on the first day after the teacher dies. Such annuity and the right thereto terminate on the last day of the month before the child: (i) becomes 18 years of age unless he is then a student as described or incapable of self-support; (ii) becomes capable of self-support after becoming 18 years of age unless he or she is then such a student; (iii) becomes 22 years of age if he or she is then such a student and capable of self-support; (iv) ceases to be such a student after becoming 18 years of age unless he or she is then incapable of self-support; or (v) dies or marries; whichever first occurs. Upon the death of the surviving spouse or domestic partner or termination of the annuity of the child, the annuity of any other child or children shall be recomputed and paid as though such spouse, domestic partner, or child had not survived the teacher.

(3) In the event any teacher to whom this part applies shall die subsequent to March 6, 1952, after completing at least 18 months of eligible service, and is not survived by a spouse, domestic partner, or children, but is survived by dependent parents or a dependent father or a dependent mother, such surviving dependent parents or parent shall be paid an annuity, beginning the first day of the month following the death of the teacher, equal to 55% of the amount of an annuity computed as provided in subsection (a) of § 38-2021.05 with respect to such teacher, except that, in the computation of the annuity under such subsection, the annuity of the teacher shall be at least the smaller of 40% of his average salary, or the sum obtained under such subsection after increasing his eligible service of the type last performed by the period elapsing between the date of death and the date he would have become 60 years of age; provided, that such payments shall be made jointly to surviving dependent parents and payment of such annuity shall continue after the death of either dependent parent; provided further, that all such payments or any right thereto shall cease upon the death of both dependent parents.

(4) In the event that a teacher to whom this part applies shall die after January 1, 2007, while performing qualified military service, the survivor or survivors of the teacher shall be entitled to receive any additional benefits provided under this part (other than benefit accruals relating to the period of qualified military service) as if the teacher resumed employment and then terminated employment on account of death.

(b-1) Effective as of January 1, 2007, benefits payable under this part shall not be paid until at least 30 days, or a shorter period as may be permitted by law, but no more than 180 days after a teacher's receipt of required distribution notices and election forms pursuant to section 402(f) of the Internal Revenue Code. The notices must include a description of the teacher's right, if any, to defer receipt of a distribution, the consequences of failing to defer receipt of the distribution, the relative value of optional forms of benefit, and other information as may be required by applicable regulations and guidance.

(c) As used in this section:

(1) The term "spouse" means a surviving wife or husband of an individual, who either shall have been married to such individual for at least 2 years immediately preceding the individual's death, or is the mother or father of issue by such marriage.

(2) The term "child" means:

(A) An unmarried child under 18 years of age, including:

(i) An adopted child; and:

(ii) A stepchild or recognized natural child who lived with the teacher in a regular parent-child relationship;

(B) Such unmarried child regardless of age who is incapable of self-support because of mental or physical disability incurred before age 18; or

(C) Such unmarried child between 18 and 22 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. For the purpose of this paragraph and paragraph (2) of subsection (b) of this section, a child whose 22nd birthday occurs before July 1st or after August 31st of a calendar year, and while he is regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the 1st day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if he shows to the satisfaction of the District of Columbia Retirement Board that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

(3) The term "dependent parents" means the natural parents of a teacher who were receiving one half or more of their total income from said teacher immediately preceding the death of said teacher.

(4) The term "dependent father" or "dependent mother" means the natural father or natural mother of a teacher who was receiving one half or more of his or her total income from said teacher immediately preceding the death of said teacher.

(5) Repealed.

(6) Questions of dependency and disability arising under this section shall be determined by the District of Columbia Retirement Board and its decisions with respect to such matters shall be final and conclusive and shall not be subject to review.

(7) The term "domestic partner" shall have the same meaning as provided in § 32-701(3), and who shall have been a domestic partner with such individual for at least 2 years immediately preceding his death.

(8) The term "qualified military service" shall mean any military service in the uniformed services, as defined in 38 U.S.C. § 43, by a teacher, if the teacher is entitled to reemployment rights with respect to such military service, all within the meaning of section 414(u)(5) of the Internal Revenue Code.

(Aug. 7, 1946, 60 Stat. 880, ch. 779, § 9; Mar. 6, 1952, 66 Stat. 19, ch. 95,§ 8; June 4, 1957, 71 Stat. 47, Pub. L. 85-46, § 1; Oct. 24, 1962, 76 Stat. 1237, Pub. L. 87-881, title II, § 203(b), (c), (d), (e); Sept. 2, 1964, 78 Stat. 886, Pub. L. 88-575, § 202; Dec. 29, 1967, 81 Stat. 748, Pub. L. 90-231, § 1(6); May 22,

1970, 84 Stat. 258, Pub. L. 91-263, § 1(e); Oct. 21, 1972, 86 Stat. 1013, Pub. L. 92-518, title II, § 201(4); Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 123(b)(1)(D), (E), 253 (a)(4); Apr. 13, 2005, D.C. Law 15-354, § 55(e), 52 DCR 2638; Sept. 12, 2008, D.C. Law 17-231, § 32(b), 55 DCR 6758; May 1, 2013, D.C. Law 19-301, § 3(b), 60 DCR 2310; May 1, 2013, D.C. Law 19-312, § 2(g), 60 DCR 3434.)

Section references. — This section is referenced in § 38-2021.04, § 38-2021.05, § 38-2021.13, § 38-2021.21, § 38-2021.27, and § 38-2023.14.

Effect of amendments.

The 2013 amendment by D.C. Law 19-301 substituted "before becoming 55 years of age" for "before becoming 60 years of age" throughout (b)(1).

The 2013 amendment by D.C. Law 19-312 rewrote (a); and added (b)(4), (b-1), and (c)(8).

Temporary Amendment of Section. — Section 2(g)(1) of D.C. Law 19-313 amended subsection (a) to read as follows:

"(a) Should a teacher to whom this act applies, after completing 5 years of eligible service and before becoming eligible for retirement, become separated from the service, the teacher may elect to receive a deferred annuity, computed as provided in section 5, beginning at the age of 62 years and terminating on the date of the teacher's death; provided, that a teacher who becomes separated from the public schools of the District of Columbia for other than retirement purposes and who does not elect to receive a deferred annuity as provided for in this section shall receive as soon as practicable after separation the refund of deductions, deposits, or redeposits; provided further, that no teacher who shall withdraw the amount of the teacher's deductions, deposits, or redeposits under this section shall, after reinstatement, be entitled to credit for previous service unless the teacher shall repay to the Custodian of Retirement Funds as defined in section 102(6) of the District of Columbia Retirement Reform Act, effective November 17, 1979 (93 Stat. 866; D. C. Official Code § 1-702(6)), for deposit in the District of Columbia Teachers' Retirement Fund, established by section 123(a) of the District of Columbia Retirement Reform Act, effective November 17, 1979 (93 Stat. 866; D.C Official Code § 1-713(a)), the amount withdrawn by him (including the interest thereon) plus interest computed in accordance with section 24(c); and provided further, that the amount required to be so deposited may be paid by the teacher, if he so elects, in any number of monthly installments, not exceeding 100."

Section 2(g)(2) of D.C. Law 19-313 added a new paragraph (b)(4) to read as follows:

"(4) In the event that a teacher to whom this act applies shall die after January 1, 2007, while performing qualified military service, the survivor or survivors of the teacher shall be entitled to receive any additional benefits provided under this act (other than benefit accruals relating to the period of qualified military service) as if the teacher resumed employment and then terminated employment on account of death."

Section 2(g)(3) of D.C. Law 19-313 added a new subsection (b-1) is added to read as follows:

"(b-1) Effective as of January 1, 2007, benefits payable under this act shall not be paid until at least 30 days, or a shorter period as may be permitted by law, but no more than 180 days after a teacher's receipt of required distribution notices and election forms pursuant to section 402(f) of the Internal Revenue Code. The notices must include a description of the teacher's right, if any, to defer receipt of a distribution, the consequences of failing to defer receipt of the distribution, the relative value of optional forms of benefit, and other information as may be required by applicable regulations and guidance."

Section 2(g)(4) of D.C. Law 19-313 added a new paragraph (c)(8) to read as follows:

"(8) The term 'qualified military service' shall mean any military service in the uniformed services, as defined in 38 U.S.C. § 43, by a teacher, if the teacher is entitled to reemployment rights with respect to such military service, all within the meaning of section 414(u)(5) of the Internal Revenue Code."

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 2(g) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

For temporary (90 days) amendment of this section, see § 2(g) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-301. — See note to § 38-2021.05.

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.13. Definitions.

(a) The term "teacher," under this part, shall include all teachers employed by the Board of Education in the public day schools of the District of Columbia, including other educational employees whose salaries are established in the District of Columbia Teachers' Salary Act of 1945 [repealed], as amended, except the employees of the Department of School Attendance and Work Permits; whenever the pronoun "his" occurs in this part it shall be construed to mean both male and female; and the term "annual salary" shall be construed to mean the total annual income received during the fiscal year for service rendered in the public day schools (not including summer schools) of the District of Columbia, including basic salary, automatic increases, and longevity allowances, provided for in the District of Columbia Teachers' Salary Act of 1945 [repealed], as amended, and all wartime additional compensation or bonus, and this definition of "annual salary" shall not be construed to affect any deductions which have been made prior to July 1, 1946, from any teacher's "annual salary" as defined in subchapter I of this chapter.

(b) The term "average salary" shall mean the largest annual rate resulting from averaging, over any period of 3 consecutive years of eligible service, or in the case of a survivor annuity under § 38-2021.09(b) based on service of less than 3 years, over the total eligible service in the public schools of the District of Columbia, a teacher's rates of annual salary in effect during such period, with each rate weighted by the time it was in effect.

(c) For purposes of this part, the term "eligible service" means service in the public schools of the District of Columbia under a temporary, probationary, or permanent appointment to a position, the rate of compensation of which is prescribed in the salary schedule adopted pursuant to §§ 1-611.11 and 1-617.16.

(d) For the purposes of this part, the term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(e) For the purposes of this part, the term "domestic partnership" shall have the same meaning as provided in § 32-701(4).

(f) For the purposes of this part, the term "Internal Revenue Code" or "Internal Revenue Code of 1986" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.).

(Aug. 7, 1946, 60 Stat. 881, ch. 779, § 13; June 4, 1957, 71 Stat. 48, Pub. L. 85-46, § 1; Dec. 29, 1967, 81 Stat. 751, Pub. L. 90-231, § 1(8); May 22, 1970, 84 Stat. 257, Pub. L. 91-263, § 1(a); Oct. 21, 1972, 86 Stat. 1013, Pub. L. 92-518, title II, § 202(a)(2); May 10, 1989, D.C. Law 7-231, § 34(b), 36 DCR 492; Sept. 12, 2008, D.C. Law 17-231, § 32(d), 55 DCR 6758; May 1, 2013, D.C. Law 19-312, § 2(h), 60 DCR 3434.)

Section references. — This section is referenced in § 1-702, § 1-901.02, and § 38-2021.05.

Effect of amendments.

The 2013 amendment by D.C. Law 19-312 added (f).

Temporary Amendment of Section. — Section 2(h) of D.C. Law 19-313 added a new paragraph at the end to read as follows:

"For the purposes of this Act, the term 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means the Internal Revenue Code of

1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.)."

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(h) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.14. Records and accounts; report to Congress. [Repealed].

Repealed.

(Aug. 7, 1946, 60 Stat. 881, ch. 779, § 14; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 146(a)(2); May 1, 2013, D.C. Law 19-312, § 2(i), 60 DCR 3434.)

Temporary Repeal of Section. — Section 2(i) of D.C. Law 19-313 repealed this section.

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary repeal of section, see § 2(h) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

For temporary (90 days) repeal of this section, see § 2(i) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.15. [Omitted].

Emergency legislation. — For temporary addition of the Act of Aug. 7, 1946, ch. 779, § 15a, concerning disposition of forfeitures, see § 2(i) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

§ 38-2021.15a. Disposition of forfeitures.

Forfeitures in the Teacher's Retirement Fund shall not be applied to increase the annuity of a person hereunder, but rather, shall be applied to pay administrative expenses, if and as directed by the District of Columbia Retirement Board, or used to reduce the District's contributions.

(Aug. 7, 1946, 60 Stat. 875, ch. 779, Pub. L. 79-624, § 15a, as added May 1, 2013, D.C. Law 19-312, § 2(j), 60 DCR 3434.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-312 added this section.

Temporary Addition of Section. — Section 2(j) of D.C. Law 19-313 added this section.

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 days) addition of this section, see § 2(j) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.17. Funds not assignable or subject to execution.

Except as provided in subchapter VI of Chapter 5 of Title 1 (§ 1-529.01 et seq.), none of the money mentioned in this part, including any assets of the District of Columbia Teachers' Retirement Fund established by § 1-713(a), shall be assignable, either in law or equity, or be subject to execution or levy by attachment, garnishment, or other legal process, except with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code, as determined solely by the District of Columbia Retirement Board.

(Aug. 7, 1946, 60 Stat. 882, ch. 779, § 17; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 123(b)(1)(F); Mar. 16, 1989, D.C. Law 7-214, § 5, 36 DCR 513; May 1, 2013, D.C. Law 19-312, § 2(k), 60 DCR 3434.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-312 rewrote the section.

Temporary Amendment of Section. — Section 2(k) of D.C. Law 19-313 amended this section to read as follows:

"Except as provided in the District of Columbia Spouse Equity Act of 1988, effective March 16, 1989 (D.C. Law 7-214; D.C. Official Code § 1-529.01 et seq.), none of the money mentioned in this act, including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C Official Code § 1-713(a)), shall be assignable, either in law or equity, or be subject to execution or levy by attachment, garnishment, or other legal process, except with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code, as determined solely by the District of Columbia Retirement Board."

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 2(j) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

For temporary (90 days) amendment of this section, see § 2(k) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.18. Applicability.

The provisions of this part shall constitute a defined benefit plan and a governmental plan, as described in section 414(d) of the Internal Revenue Code, which is intended to qualify under section 401(a) of the Internal Revenue Code. Notwithstanding anything to the contrary contained in this part, Chapter 7 of Title 1 (§ 1-701 et seq.), or Chapter 9 of Title 1 (§ 1-901.01 et seq.), the provisions of this part shall apply to and control the provision of any annuity payable. The provisions of this part shall apply to all teachers on the rolls of the public schools of the District who accrue service after June 30, 1997, under the Teachers' Retirement Program established pursuant to Chapter 9 of Title 1 (§ 1-901.01 et seq.), if otherwise eligible.

(Aug. 7, 1946, 60 Stat. 882, ch. 779, § 18; May 1, 2013, D.C. Law 19-312, § 2(l), 60 DCR 3434.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-312 rewrote the section.

Temporary Amendment of Section. — Section 2(l) of D.C. Law 19-313 amended this section to read as follows:

"Applicability.

"The provisions of this act and the associated acts shall constitute a defined benefit plan and a governmental plan, as described in section 414(d) of the Internal Revenue Code, which is intended to qualify under section 401(a) of the Internal Revenue Code. Notwithstanding anything to the contrary contained in this act, the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-701 et seq.), or the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 et seq.), the provisions of this act shall apply to and control the provision of any annuity payable. The provisions of this act shall apply to all teachers on the rolls of the public schools of the District who accrue service after June 30, 1997, under the Teachers' Retirement Program established pursuant to the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 et seq.), if otherwise eligible."

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 2(k) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

For temporary (90 days) amendment of this section, see § 2(l) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.24. Rollovers; purchase of service credit. [Transferred].

Recodified as § 38-2021.26.

Section references. — This section is referenced in § 38-2021.08 and § 38-2021.09.

Editor's notes. — Section 2(m) of D.C. Law 19-312 recodified former § 38-2021.24 as § 38-2021.26.

§ 38-2021.25. Internal Revenue Code limits. [Transferred].

Recodified as § 38-2021.27.

Editor's notes. — Section 2(n) of D.C. Law 19-312 recodified former § 38-2021.25 as § 38-2021.27.

§ 38-2021.26. Rollovers; purchase of service credit.

(a) An individual withdrawing a distribution under this part that constitutes an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code may elect, at the time and in the manner prescribed by the District of Columbia Retirement Board, and after receipt of proper notice, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan, within the meaning of section 402(c) of the Internal Revenue Code, in a direct rollover in accordance with section 401(a)(31) of the Internal Revenue Code. Any nontaxable distribution or portion thereof from a qualified plan may be directly rolled over tax-free to another qualified plan or a plan or annuity contract described in section 403(b) of the Internal Revenue Code, if separate accounting and other requirements are met pursuant to section 402(c)(2)(A) of the Internal Revenue Code.

(b) The Custodian of the Retirement Funds shall be entrusted with any transfer from another retirement plan for the purchase of service credit, including transfers allowed by sections 403(b) and 457 of the Internal Revenue Code of 1986. Before any transfer is received, the District of Columbia Retirement Board shall be presented with documentation sufficient to satisfy the provisions of the Internal Revenue Code of 1986 governing the substantiation of proposed transfers for the purchase of service credit.

(c)(1) The Custodian of the Retirement Funds shall also be entrusted with any rollover contribution from an eligible retirement plan, including:

(A) A qualified plan described in section 401(a) or 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

(B) An annuity contract described in section 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

(C) An eligible plan under section 457(b) of the Internal Revenue Code of 1986 which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; or

(D) Amounts transferred from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code of 1986 that is eligible to be rolled over and would otherwise be includible in gross income.

(2) The rollover shall be separately accounted for as member contributions that were not previously taxed. Before any rollover is received, the District of Columbia Retirement Board shall be presented with documentation sufficient to satisfy the provisions of the Internal Revenue Code of 1986 governing the substantiation of proposed rollover contributions. The rollover shall be used to purchase service credit in addition to the service credit provided under the provisions of this part.

(d) The District of Columbia Retirement Board shall administer this part in the manner required to satisfy the applicable qualification requirements for a qualified governmental plan pursuant to the Internal Revenue Code of 1986. If a conflict should arise with a qualification requirement, the provision shall be interpreted in favor of maintaining the federal qualification requirements. The District of Columbia Retirement Board may adopt rules to implement this section.

(e) For the purposes of this section, the term:

(1) "Direct rollover" means a payment to the eligible retirement plan specified by the distributee described in section 402(e)(6) of the Internal Revenue Code.

(2) "Distributee" means a teacher or former teacher. In addition, the teacher' or former teacher's surviving spouse is a distributee with regard to the interest of the spouse or former spouse. A nonspouse beneficiary of a deceased teacher is also a distributee for purposes of this section; provided, that, in the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity under section 408 of the Internal Revenue Code that is established on behalf of the nonspouse beneficiary and that will be treated as an inherited IRA pursuant to the provisions of section 402(c)(11) of the Internal Revenue Code. The determination of the extent to

which a distribution to a nonspouse beneficiary is required under section 401(a)(9) of the Internal Revenue Code shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

(3) "Eligible retirement plan" means:

(A) An individual retirement account described in section 408(a) of the Internal Revenue Code, including a Roth IRA described in section 408A of the Internal Revenue Code;

(B) An individual retirement annuity described in section 408(b) of the Internal Revenue Code, including a Roth IRA described in section 408A of the Internal Revenue Code;

(C) A qualified trust described in section 401(a) of the Internal Revenue Code or an annuity plan described in section 403(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution;

(D) An annuity contract described in section 403(b) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution; and

(E) An eligible plan described in section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state, that accepts the distributee's eligible rollover distribution and agrees to account separately for amounts transferred into such plan from the arrangement described under this part. The foregoing definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relations order.

(4) "Eligible rollover distribution," within the meaning of section 402(c) of the Internal Revenue Code, means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(A) A distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; and

(B) A distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code. A distribution to a nonspouse beneficiary under section 401(f)(2)(A) of the Internal Revenue Code is an eligible rollover distribution. A portion of the distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, the portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code or to a qualified trust or annuity plan described in section 401(a) or 403(a) of the Internal Revenue Code or an annuity contract described in section 403(b) of the Internal Revenue Code if the trust or annuity plan or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(Aug. 7, 1946, ch. 799, § 24, as added Oct. 1, 2002, D.C. Law 14-190, § 3702, 49 DCR 6968; Mar. 13, 2004, D.C. Law 15-105, § 71, 51 DCR 881; Apr. 13, 2005, D.C. Law 15-354, § 55(h), 52 DCR 2638; renumbered as § 25 [26], May 1, 2013, D.C. Law 19-312, § 2(m), 60 DCR 3434.)

Section references. — This section is referenced in § 38-2021.24.

Prior Codifications. — 2001 Ed., § 38-2021.24.

Effect of amendments.

The 2013 amendment by D.C. Law 19-312 renumbered § 24 of the Act of Aug. 7, 1946, ch. 799, as § 25; rewrote (a); added "an eligible retirement plan, including" in the introductory language of (c); substituted "shall administer this part" for "shall administer the plan" in (d); and added (e).

Temporary legislation. — Section 2(m)(1) of D.C. Law 19-313 redesignated § 24 of the Act of Aug. 7, 1946, 60 Stat. 878, ch. 779, as § 25.

Section 2(m)(2) of D.C. Law 19-313 amended subsection (a) to read as follows:

"(a) An individual withdrawing a distribution under this act that constitutes an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code may elect, at the time and in the manner prescribed by the District of Columbia Retirement Board, and after receipt of proper notice, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan, within the meaning of section 402(c) of the Internal Revenue Code, in a direct rollover in accordance with section 401(a)(31) of the Internal Revenue Code. Any nontaxable distribution or portion thereof from a qualified plan may be directly rolled over tax-free to another qualified plan or a plan or annuity contract described in section 403(b) of the Internal Revenue Code, if separate accounting and other requirements are met pursuant to section 402(c)(2)(A) of the Internal Revenue Code."

Section 2(m)(3) of D.C. Law 19-313 amended subsection (c) by striking the phrase "contribution from:" in the lead-in language and inserting the phrase "contribution from an eligible retirement plan, including:" in its place.

Section 2(m)(4) of D.C. Law 19-313 amended subsection (d) by striking the phrase "shall administer the plan" and inserting the phrase "shall administer this act and the associated acts" in its place.

Section 2(m)(5) of D.C. Law 19-313 added a new subsection (e) to read as follows:

"(e) For the purposes of this section, the term:

"(1) 'Direct rollover' means a payment to the eligible retirement plan specified by the distributee described in section 402(e)(6) of the Internal Revenue Code.

"(2) 'Distributee' means a teacher or former teacher. In addition, the teacher' or former teacher's surviving spouse is a distributee with regard to the interest of the spouse or former spouse. A nonspouse beneficiary of a deceased teacher is also a distributee for purposes of this section; provided, that, in the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity under section 408 of the Internal Revenue Code that is established on behalf of the nonspouse beneficiary and that will be treated as an inherited IRA pursuant to the provisions of section 402(c)(11) of the Internal Revenue Code. The determination of the extent to which a distribution to a nonspouse beneficiary is required under section 401(a)(9) of the Internal Revenue Code shall be made in accordance with IRS Notice 2007-7, Q 17 and 18, 2007-5 I.R.B. 395.

"(3) 'Eligible retirement plan' means:

"(A) An individual retirement account described in section 408(a) of the Internal Revenue Code, including a Roth IRA described in section 408A of the Internal Revenue Code;

"(B) An individual retirement annuity described in section 408(b) of the Internal Revenue Code, including a Roth IRA described in section 408A of the Internal Revenue Code;

"(C) A qualified trust described in section 401(a) of the Internal Revenue Code or an annuity plan described in section 403(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution;

"(D) An annuity contract described in section 403(b) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution; and

"(E) An eligible plan described in section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state, that accepts the distributee's eligible rollover distribution and agrees to account separately for amounts transferred into such plan from the arrangement described under this act. The foregoing definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relations order.

"(4) 'Eligible rollover distribution,' within the meaning of section 402(c) of the Internal Revenue Code, means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

"(A) A distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; and

"(B) A distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code. A distribution to a nonspouse beneficiary under section 401(f)(2)(A) of the Internal Revenue Code is an eligible rollover distribution. A portion of the distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, the portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code or to a qualified trust or annuity plan described in section 401(a) or 403(a) of the Internal Revenue Code or an annuity contract described in section 403(b) of the Internal Revenue Code if the trust or annuity plan or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible."

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 2(l) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

For temporary (90 days) amendment of this section, see § 2(m) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-312. — See note to § 38-2021.01.

§ 38-2021.27. Internal Revenue Code limits.

(a) Benefits and contributions under the provisions of this part shall not be computed with reference to any compensation that exceeds that maximum dollar amount permitted by section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost-of-living.

(b) Notwithstanding the foregoing provisions of this part to the contrary, benefits under this part are subject to the limitations imposed by section 415 of the Internal Revenue Code, as adjusted from time to time and, to that end, effective for limitation years beginning on or after January 1, 2008:

(1)(A) To the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to the remainder of this subsection, the maximum monthly benefit to which any teacher may be entitled in any limitation year with respect to his or her accrued retirement benefit, as adjusted from time to time pursuant to § 38-2021.21 (hereafter referred to as the "maximum benefit"), shall not exceed the defined benefit dollar limit (adjusted as provided in this subsection). In addition to the foregoing, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to this subsection), the maximum annual additions for any limitation year shall be equal to the lesser of:

(i) The dollar limit on annual additions; or

(ii) 100% of the teacher's remuneration.

(B) The defined benefit dollar limit and the dollar limit on annual additions shall be adjusted, effective January 1 of each year, under section 415(d) of the Internal Revenue Code in such manner as the Secretary of the Treasury shall prescribe. The dollar limit as adjusted under section 415(d) of the Internal Revenue Code shall apply to limitation years ending with or within the calendar year for which the adjustment applies, but a teacher's benefits shall not reflect the adjusted limit before January 1 of that calendar

year. To the extent that the monthly benefit payable to a teacher who has reached his or her termination date is limited by the application of this subsection, the limit shall be adjusted to reflect subsequent adjustments made in accordance with section 415(d) of the Internal Revenue Code, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.

(2) Benefits shall be actuarially adjusted based upon the defined benefit dollar limit, as follows:

(A) There shall be an adjustment for benefits payable in a form other than a straight life annuity as follows:

(i) If a monthly benefit is payable in a form other than a straight life annuity, before applying the defined benefit dollar limit, the benefit shall be adjusted, in the manner described in sub-subparagraphs (ii) or (iii) of this subparagraph, to the actuarially equivalent straight life annuity that begins at the same time. No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits), or in the case of a form of benefit not subject to section 417(e)(3) of the Internal Revenue Code, the inclusion of a feature under which a benefit increases automatically to the extent permitted to reflect cost-of-living adjustments and the increase, if any, in the defined benefit dollar limit under section 415(d) of the Internal Revenue Code.

(ii) If the benefit of a teacher is paid in a form not subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity (without regard to cost-of-living adjustments described in this subsection) is equal to the greater of the annual amount of the straight life annuity, if any, payable to the teacher commencing at the same time, or the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the teacher's form of benefit, computed using a 5% interest rate and the applicable mortality designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code.

(iii) If the benefit of a teacher is paid in a form subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity is equal to the greatest of:

(I) The annual amount of the straight life annuity having a commencement date that has the same actuarial present value as the teacher's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the definition of actuarial equivalent for adjusting benefits in the same form;

(II) The annual amount of the straight life annuity commencing at the time that has the same actuarial present value as the teacher's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code; or

(III) The annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the teacher's form

of benefit, computed using the applicable interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code, divided by 1.05.

(iv) For the purposes of this subparagraph, whether a form of benefit is subject to section 417(e) of the Internal Revenue Code is determined without regard to the status of this part as a government plan as described in section 414(d) of the Internal Revenue Code.

(B) There shall be an adjustment to benefits that commence before age 62 or after age 65 as follows:

(i) If the benefit of a teacher begins before age 62, the defined benefit dollar limit applicable to the teacher at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limit applicable to the teacher at age 62 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this part provides an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

(I) The limitation determined under the immediately preceding sentence; or

(II) The defined benefit dollar limit, adjusted for participation of fewer than 10 years, if applicable, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under this part at the age of benefit commencement to the annual amount of the immediately commencing straight life annuity under this part at age 62, both determined without applying the limitations of this section. The adjustment in this sub-subparagraph shall not apply as a result of benefits paid on account of disability under § 38-2021.04 or as a result of the death of a teacher under § 38-2021.09.

(ii) If the benefit of a teacher begins after age 65, the defined benefit dollar limit applicable to the teacher at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limit applicable at age 65 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this part provides an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

(I) The limitation determined under the immediately preceding sentence; or

(II) The defined benefit dollar limit (adjusted for participation of less than 10 years, if applicable) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under this part at the age of benefit commencement to the annual amount of the adjusted

immediately commencing straight life annuity under this part at age 65, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under this part at the age the benefit commences is the annual amount of the annuity payable to the teacher, computed disregarding the teacher's accruals after age 65 but including any actuarial adjustments, even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under this part at age 65 is the annual amount of such annuity that would be payable under this part to a hypothetical teacher who is age 65 and has the same annuity as the teacher.

(iii) For the purposes of this subparagraph, no adjustment shall be made to the defined benefit dollar limit to reflect the probability of a teacher's death between the commencing date and age 62, or between age 65 and the commencing date, as applicable, if benefits are not forfeited upon the death of the teacher before the annuity having a commencing date. To the extent benefits are forfeited upon death before the date the benefits first commence, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the teacher's death if the benefit provided under this part does not charge the teacher for providing a qualified preretirement survivor annuity (as defined for purposes of section 415 of the Internal Revenue Code) upon the teacher's death.

(3) If the teacher has fewer than 10 years of participation in the defined benefit portion of this part (as determined under section 415 of the Internal Revenue Code and associated regulations), the defined benefit dollar limit shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation under this part and the denominator of which is 10. The adjustment in this paragraph shall not apply to benefits paid on account of disability under § 38-2021.04(d) or as a result of the death of a teacher under § 38-2021.09. In the case of years of credited service credited to a teacher pursuant to § 38-2021.08:

(A) The limitations contained in paragraph (1)(A)(i) of this subsection and this paragraph shall not apply to the portion of the teacher's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under § 38-2021.08 that are actuarially funded by:

(i) A transfer or rollover from the teacher's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code or an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code or from an individual retirement account; or

(ii) A direct payment.

(B) The limitations contained in paragraph (1)(A)(i) of this subsection and this paragraph shall apply to the portion of the teacher's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under § 38-2021.08 that are not actuarially funded by:

(i) A transfer or rollover from the teacher's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code or an

eligible deferred compensation plan (within the meaning of section 457(b) of the Internal Revenue Code) or from an individual retirement account; or

(ii) A direct payment.

(C) The determination of the extent to which additional years of credited service under § 38-2021.08 have been actuarially funded as of the annuity commencement date shall be determined in accordance with section 411(c) of the Internal Revenue Code (using the actuarial assumptions thereunder), applied as if section 411(c) of the Internal Revenue Code applied and treating the amount transferred from a plan qualified under section 401(a) of the Internal Revenue Code, the teacher's account under an eligible deferred compensation plan (within the meaning of section 457(b) of the Internal Revenue Code), or an individual retirement account, or the amount of the direct lump-sum payment to the Custodian of Retirement Funds, as if it were a mandatory employee contribution.

(4) In addition to the foregoing, the maximum benefit and contributions shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, with respect to any teacher who is also a participant in:

(A) Any other tax-qualified retirement plan maintained by the District of Columbia, including a defined benefit plan in which an individual medical benefit account, as described in section 415(l) of the Internal Revenue Code, has been established for the teacher;

(B) A welfare plan maintained by the District of Columbia in which a separate account, as described in section 419A(d) of the Internal Revenue Code, has been established to provide post-retirement medical benefits for the teacher; or

(C) A retirement or welfare plan, as aforesaid, maintained by an affiliated or predecessor employer, as described in regulations under section 415 of the Internal Revenue Code, or otherwise required to be taken into account under such regulations.

(5) If a teacher has distributions commencing at more than one date determined in accordance with section 415 of the Internal Revenue Code and associated regulations, the annuity payable having the commencement date shall satisfy the limitations of this subsection as of each date, actuarially adjusting for past and future distributions of benefits commencing at the other dates that benefits commence.

(6) The application of the provisions of this subsection shall not cause the maximum permissible benefit for a teacher to be less than the teacher's annuity under this part as of the end of the last limitation year beginning before July 1, 2007 under provisions of this part that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under section 415 of the Internal Revenue Code as in effect as of the end of the last limitation year beginning before July 1, 2007.

(7) To the extent that a teacher's benefit is subject to provisions of section 415 of the Internal Revenue Code that have not been set forth in this part, these provisions are hereby incorporated by reference and for all purposes shall be deemed a part of this part.

(c) Notwithstanding any other provision to the contrary, all death benefit payments referred to in this section shall be distributed only in accordance with section 401(a)(9) of the Internal Revenue Code and accompanying Treasury regulations, as more fully set forth in § 38-2021.07a.

(d) For the purposes of this section, the term:

(1) "Annual additions" means the sum of the following items credited to the teacher under this part and any other tax-qualified retirement plan sponsored by the District of Columbia for a limitation year and treated as a defined contribution plan for purposes of section 415 of the Internal Revenue Code: District of Columbia contributions that are separately allocated to the teacher's credit in any defined contribution plan; forfeitures; teacher contributions (other than contributions that are picked up by the District of Columbia as described in section 414(h)(2) of the Internal Revenue Code); and amounts credited after March 31, 1984 to a teacher's individual medical account (within the meaning of section 415(l) of the Internal Revenue Code).

(2) "Defined benefit dollar limit" means the dollar limit imposed by section 415(b)(1)(A) of the Internal Revenue Code, as adjusted pursuant to section 415(d) of the Internal Revenue Code. The defined benefit dollar limit as set forth above is the monthly amount payable in the form of a straight life annuity, beginning no earlier than age 62 (except as provided in subsection (b)(2)(B)(i)) of this section and no later than age 65. In the case of a monthly amount payable in a form other than a straight life annuity, or beginning before age 62 or after age 65, the adjustments in subsection (b)(2) of this section shall apply.

(3) "Dollar limit" means the dollar limit on annual additions imposed by section 415(c)(1)(A) of the Internal Revenue Code, as adjusted pursuant to section 415(d) of the Internal Revenue Code.

(4) "Remuneration" means a teacher's wages as defined in section 3401(a) of the Internal Revenue Code and all other payments of salary to the teacher from the public schools of the District of Columbia for which the public schools of the District of Columbia is required to furnish the teacher a written statement under sections 6041(d) and 6051(a)(3) of the Internal Revenue Code. For this purpose:

(A) Remuneration shall be determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

(B) Remuneration does not include mandatory employee contributions picked up by the public schools of the District of Columbia pursuant to section 1.

(C) Remuneration shall include an amount that would otherwise be deemed remuneration under this definition but for the fact that it is subject to a salary reduction agreement under a plan described in section 457(b), 132(f) or 125 of the Internal Revenue Code.

(D) Remuneration with respect to any limitation year shall in no event exceed the dollar limit specified in section 401(a)(17) of the Internal Revenue Code (as adjusted from time to time by the Secretary of the Treasury). The cost-of-living adjustment in effect for a calendar year applies to remuneration for the limitation year that begins with or within such calendar year.

(Aug. 7, 1946, ch. 799, § 25, as added Oct. 1, 2002, D.C. Law 14-190, § 3702, 49 DCR 6968; Mar. 13, 2004, D.C. Law 15-105, § 71, 51 DCR 881; renumbered as § 26, May 1, 2013, D.C. Law 19-312, § 2(n), 60 DCR 3434.)

Section references. — This section is referenced in § 38-2021.25.

Prior Codifications. — 2001 Ed., § 38-2021.25.

Effect of amendments.

The 2013 amendment by D.C. Law 19-312 renumbered § 25 of the Act of Aug. 7, 1946, ch. 799, as § 26; and rewrote the section.

Temporary legislation. — Section 2(n)(1) of D.C. Law 19-313 redesignated § 25 of the Act of Aug. 7, 1946, 60 Stat. 878, ch. 779, as § 26.

Section 2(n)(2) of D.C. Law 19-313 amended this section.

Section 4(b) of D.C. Law 19-313 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 2(n) of the Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-584, January 1, 2013, 60 DCR 134).

For temporary (90 days) amendment of this section, see § 2(n) of the Retirement of Public-School Teachers Omnibus Congressional Review Emergency Act of 2013 (D.C. Act 20-41, March 25, 2013, 60 DCR 5361, 20 DCSTAT 527).

Legislative history of Law 19-312. — See note to § 38-2021.01.

SUBTITLE VII. SPECIAL EDUCATION.

CHAPTER 25B. PLACEMENT OF STUDENTS WITH DISABILITIES IN NONPUBLIC SCHOOLS.

Sec.
38-2561.01. Definitions.

§ 38-2561.01. Definitions.

For the purposes of this chapter, the term:

(1) "Aversive intervention" means specific strategies for behavioral-treatment intervention, including:

(A) Noxious, painful, intrusive stimuli or activities that result in pain;

(B) Any form of noxious, painful, or intrusive spray or inhalant;

(C) Electric shock or use of a graduated electronic decelerator;

(D) Pinches and deep muscle squeezes;

(E) Withholding adequate sleep, shelter, clothing, bedding, or bathroom facilities;

(F) Withholding meals, essential nutrition, or hydration, or intentionally altering staple food or drink to make it distasteful; or

(G) The use of chemical restraints, instead of positive programs or medical treatments.

(1A) "Certificate of Approval" means the document issued by the SEA to the legal authority responsible for governing and operating a nonpublic special education school or program upon determination that the nonpublic special education school or program is in compliance with the requirements of § 38-2561.07.

(2) "DCPS" means the public local education system under the control of

the Board of Education. The term "DCPS" does not include public charter schools.

(3) "Free appropriate public education" means special education and related services that:

(A) Have been provided at public expense, under public supervision and direction, and without charge;

(B) Meet the standards of the State Education Agency;

(C) Include an appropriate preschool, elementary school, or secondary school education; and

(D) Are provided in conformity with the individualized education plan.

(4) "IDEA" means the Individuals with Disabilities Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1400 et seq.), and its implementing regulations.

(5) "Individualized education plan" or "IEP" means a written plan that specifies the special education programs and services to be provided to meet the unique educational needs of a student with a disability, as required under section 614(d) of the IDEA [20 U.S.C. § 1414(d)].

(6) "Least restrictive environment" means a placement of a student with a disability that:

(A) Provides the special education needed by the student;

(B) Provides for the education of the student, to the maximum extent appropriate, with other students who do not have disabilities;

(C) Is based upon consideration of the proximity of the placement to the student's place of residence; and

(D) Is in accordance with section 612(a)(5)(A) of the IDEA [20 U.S.C. § 1412(a)(5)(A)].

(7)(A) "Nonpublic special education school or program" means a privately owned or operated preschool, school, educational organization, or program, no matter how titled, that maintains or conducts classes for the purpose of offering instruction, for a consideration, profit, or tuition, to students with disabilities.

(B) The term "nonpublic special education school or program" shall not include a privately owned or operated preschool, elementary, middle, or secondary school whose primary purpose is to provide educational services to students without disabilities, even though the school may serve students with disabilities in a regular academic setting.

(8) "Panel" means the Rate Reconsideration Panel established by § 38-2561.14.

(9) "Rates" are the annual or per-diem costs paid to each nonpublic special education school or program, for tuition and for each unit of related service delivered.

(10) "Related services" shall have the same meaning as provided in section 602(26) of the IDEA [20 U.S.C. § 1401(26)].

(11) "Residential child care facility" means a program that provides care for children 24 hours a day with a structured set of services and activities designed to achieve objectives related to the needs of the children served.

(12) "Special education" shall have the same meaning as provided in section 602(29) of the IDEA [20 U.S.C. § 1401(29)].

(13) "State education agency" or "SEA" means the Office of the State Superintendent of Education, or any successor agency that has primary responsibility for the state-level supervisory functions for special education that are typically handled by a state department of education or public instruction, a state board of education, a state education commission, or a state education authority.

(14) "Student with a disability" means a student determined to have:

(A) Autism;

(B) Deaf-blindness;

(C) A developmental delay;

(D) A hearing impairment, including deafness;

(E) An intellectual disability;

(F) Multiple disabilities;

(G) An orthopedic impairment or other health impairment;

(H) An emotional disturbance;

(I) A severe disability;

(J) A specific learning disability;

(K) A speech or language impairment;

(L) A traumatic brain injury;

(M) A visual impairment, including blindness; or

(N) Any other condition, disability, or impairment described in section 602(3) of the IDEA [20 U.S.C. § 1401(3)], or in section 7(8) of the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 359; 29 U.S.C. § 706(8)) [repealed, see now 29 U.S.C. § 705(20)].

(Mar. 14, 2007, D.C. Law 16-269, § 101, 54 DCR 841; Mar. 20, 2009, D.C. Law 17-304, § 2(a), 55 DCR 12806; Sept. 26, 2012, D.C. Law 19-169, § 25, 59 DCR 5567.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "An intellectual disability" for "Mental retardation" in (14)(E).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

SUBTITLE VIII. STATE LEVEL AGENCIES AND ACTIVITIES.

CHAPTER 26. OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION.

§ 38-2601. Establishment of the Office of the State Superintendent of Education.

(a) There is established, under the Office of the Mayor, an Office of the State Superintendent of Education.

(b) The OSSE shall be headed by a State Superintendent of Education, who shall be appointed by the Mayor with the advice and consent of the Council in accordance with § 1-523.01(a). The Officer shall serve a 4-year term.

(c) The State Superintendent shall serve as the chief state school officer for the District of Columbia and shall represent the OSSE and the District of Columbia in all matters before the United States Department of Education and with other states and educational organizations.

(d) All operational authority for state-level functions, except that delegated to the State Board of Education in § 38-2652, shall vest in the Office of the State Superintendent of Education under the supervision of the State Superintendent of Education.

(Oct. 21, 2000, D.C. Law 13-176, § 2, 47 DCR 6835; June 12, 2007, D.C. Law 17-9, § 302(a), 54 DCR 4102; Feb. 22, 2014, D.C. Law 20-84, § 102(a), 61 DCR 178.)

Section references. — This section is referenced in § 7-863.03a, § 7-2033.01, § 38-271.01, § 38-1313, § 38-1800.02, § 38-1802.14, § 38-2601.02, and § 38-2605.01.

Effect of amendments.

The 2014 amendment by D.C. Law 20-84 deleted "('OSSE')" following "Education" in (a); and deleted "('State Superintendent')" following "Education" in (b).

Legislative history of Law 20-84. — Law 20-84, the "Focused Student Achievement Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-311. The Bill was adopted on first and second readings on November 5, 2013, and December 3, 2013, respectively. Signed by the Mayor on December 27, 2013, it was assigned Act No. 20-254 and transmitted to Congress for its review. D.C. Law 20-84 became effective on February 22, 2014.

§ 38-2601.02. Definitions.

For the purposes of this chapter, the term:

(1) "CTE grant program" is the supplemental career and technical education grant program established by § 38-2611 that provides grants to DCPS and public charter schools to support and enhance their career and technical education programs.

(1A) "DCPS" means the District of Columbia Public Schools established by § 38-171.

(1B) "Districtwide assessments" has the same meaning as provided in § 38-1800.02(13).

(2) "Field test" means a test used during the test-development process to assess the quality and appropriateness of test items, administration procedures, scoring, and reporting.

(2A) "Formula" shall have the meaning as provided in § 38-2901(8).

(2B) "Fund" means the CTE Grant Program Fund established by § 38-2612.

(3) "Local education agency" or "LEA" means an educational institution at the local level that exists primarily to operate a publicly funded school or schools in the District of Columbia, including the District of Columbia Public Schools and a District of Columbia public charter school.

(4) "OSSE" means the Office of the State Superintendent of Education established by § 38-2601.

(5) "Practice test" means any test or other evaluation that has as its primary purpose the simulation of a Districtwide assessment or other test or evaluation as administered by an LEA rather than for assessing student proficiency levels or informing instruction and remediation needs.

(6) "State Superintendent" means the head of OSSE appointed by the Mayor pursuant to § 38-2601.

(Oct. 21, 2000, D.C. Law 13-176, § 2b, as added Feb. 22, 2014, D.C. Law 20-84, § 102(b), 61 DCR 178; Feb. 22, 2014, D.C. Law 20-87, § 2(a), 61 DCR 309.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-84 added this section.

The 2014 amendment by D.C. Law 20-87 redesignated (1) as (1B); and added (1), (1A), (2A) and (2B).

Legislative history of Law 20-84. — See note to § 38-2601.

Legislative history of Law 20-87. — Law 20-87, the "Fair Student Funding and School-Based Budgeting Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-309. The Bill was adopted on first and second readings on December 3, 2013, and December 17, 2013, respectively. Signed by the Mayor on January 2, 2014, it was assigned Act No. 20-257 and transmitted to Congress for its review. D.C. Law 20-87 became effective on February 22, 2014.

§ 38-2602. Responsibilities.

(a) Within one year of the Officer's appointment, but not later than October 2001, and except as provided in § 38-2604, the OSSE shall assume the responsibilities listed in subsection (b) of this section. The transfer and assumption of responsibilities shall take place in accordance with the short-term plan to be submitted by the Officer to the Mayor for approval by February 15, 2001, or 5 weeks from the establishment of the OSSE, whichever is later.

(b) The OSSE shall:

(1) Have authority for all state functions for federally sponsored child nutrition programs in the District, including those sponsored by the United States Department of Agriculture;

(2) Verify annual fall enrollment counts for all public and public charter schools pursuant to § 38-1804.02 and § 38-159;

(3) Formulate and promulgate rules for the documentation and verification of District residency for public and public charter school students, pursuant to §§ 38-302 and 38-303;

(4) Make recommendations for periodic revisions to the Uniform Per Student Funding Formula pursuant to § 38-2911;

(5) Conduct a study to be submitted to the Mayor and Council recommending additional functions to be assumed by the OSSE and a proposed transition plan meeting the specifications of § 38-2605;

(6) Oversee the functions and activities of the Education Licensure Commission, established by § 38-1303;

(6A) Establish and administer licensure requirements for pre-kindergarten programs, pursuant to § 38-271.02(a)(3);

(7) Issue rules to establish requirements to govern acceptable credit to be granted for studies completed at independent, private, public, public charter schools, and private instruction;

(8) Prescribe minimum amounts of instructional time for all schools, including public, public charter, and private schools;

(8A) Prescribe standards for extended learning time beyond the regular school day for public schools, including public charter schools;

(9) Oversee the state-level functions and activities related to early childhood education programs, including the public education of the Early Intervention Services Program, in accordance with § 7-863.02;

(9A) Administer pre-kindergarten education, in accordance with § 38-271.02;

(9B) Conduct a residency audit, annually, to establish the number of in-District and out-of-District children enrolled in pre-kindergarten pursuant to Chapter 2A of this title [§ 38-271.01 et seq.];

(10) Provide for the education of children in the custody of the Department of Youth Rehabilitation Services;

(11) Formulate and promulgate rules necessary to carry out its functions, including rules governing the process for review and approval of state-level policies by the State Board of Education under § 38-2652, pursuant to Chapter 5 of Title 2 [§ 2-501 et seq.];

(12) Develop and adopt policies that come within the functions of state educational agencies under federal law, subject to the approval of the State Board of Education for those policies that are subject to board approval under § 38-2652;

(13) Conduct studies and pilot projects to develop, review, or test state policy;

(14) Repealed;

(15) Fulfill any other responsibilities consistent with the performance of the state-level education functions of the District of Columbia;

(16) Promulgate rules for the administration and implementation of the uniform per student funding formula, pursuant to Chapter 29 of this title;

(17) Have the authority to collect and dedicate fees for state academic credential certifications and general educational development testing as well as for any other state-level education function, as established by the Superintendent by regulation;

(18) Have the authority to issue grants, from funds under its administration (including the non-public tuition paper agency), to local education agencies ("LEAs") for programs that increase the capacity of the LEA to provide special education services;

(19) By August 1, 2013, create a truancy prevention resource guide for parents and legal guardians who have children who attend a District public school, which shall be updated and made available upon request and, at minimum, include:

(A) An explanation of the District's laws and regulations related to absenteeism and truancy;

(B) Information on:

(i) What a parent or legal guardian can do to prevent truancy;

(ii) The common causes of truancy; and

(iii) Common consequences of truancy;

(C) A comprehensive list of resources that are available to a parent or legal guardian, and the student, that address the common causes of truancy and the prevention of it, such as:

(i) Hotlines that provide assistance to parents, legal guardians, and youth;

(ii) Counseling for the parent (or legal guardian) or the youth, or both;

(iii) Parenting classes;

(iv) Parent-support groups;

(v) Family psycho-education programs;

(vi) Parent-resource libraries;

(vii) Risk prevention education;

(viii) Neighborhood family support organizations and collaboratives that provide assistance to families experiencing hardship;

(ix) Behavioral health resources and programs in schools;

(x) The Behavioral Health Ombudsman Program; and

(xi) The resources at each public school for at-risk students and their parents or legal guardians;

(20)(A) Oversee the functions and activities, as required, of Chapter 7C of this title [§ 38-771.01 et seq.], including ensuring the integrity and security of Districtwide assessments administered by a local education agency;

(B) Establish standards to obtain and securely maintain and distribute test materials, which shall at minimum require that:

(i) An inventory of all test materials be maintained;

(ii) All test materials be secured under lock and key;

(iii) Only authorized personnel have access to test materials; and

(iv) All authorized personnel sign a test integrity and security agreement before being able to access test materials or assist in the administration of a Districtwide assessment;

(C) Require each LEA to maintain and submit to OSSE at least 90 days before the administration of a Districtwide assessment a test security plan that at minimum includes:

(i) Procedures for the secure maintenance, dissemination, collection, and storage of Districtwide assessment materials before, during, and after administering a test, including:

(I) Keeping an inventory of all materials and identifying individuals with access to the materials;

(II) Accounting for and reporting to the OSSE any materials that are lost or otherwise unaccounted; and

(III) Accounting for and securing old or damaged materials;

(ii) The name and contact information for the test integrity coordinator and the test monitors at each school under the LEA's control;

(iii) A list of actions prohibited by authorized personnel;

(iv) Procedures pursuant to which students, authorized personnel, and other individuals may, and are encouraged to, report irregularities in testing administration or testing security; and

(v) Written procedures for investigating and remediating any complaint, allegation, or concern about a potential failure of testing integrity and security;

(D) Approve an LEA's test security plan and make recommendations to amend the plan when necessary;

(E) Keep a copy of each LEA's test security plan on file, which shall be made available to a member of the public upon request;

(F) Establish a standard for monitoring the administration of Districtwide assessments to ensure compliance with all applicable laws, regulations, and policies;

(G) Monitor Districtwide assessment administration procedures in randomly selected schools and in targeted schools to ensure adherence to all applicable laws, regulations, and policies, which may occur one week before the administration of a Districtwide assessment and during the administration of a Districtwide assessment;

(H) Establish a process by which to ensure compliance with all applicable laws and regulations for the administration of Districtwide assessments for LEA students at nonpublic schools;

(I) Develop and distribute a testing integrity and security agreement to be signed by authorized personnel;

(J) Develop standards to train authorized personnel on testing integrity and security and require the authorized personnel to acknowledge in writing that he or she completed the training;

(K) Provide technical assistance to LEAs regarding testing integrity and security procedures;

(L) Establish standards for the investigation of any alleged violation of an applicable law, regulation, or policy relating to testing integrity and security, which standards shall:

(i) Identify the circumstances that trigger an investigation;

(ii) Require the initiation of an investigation even if only one circumstance is present; provided, that there appears to be egregious noncompliance; and

(iii) Require the investigation of any report of a violation of the laws, regulations, and policies relating to testing integrity and security;

(M) Cooperate with any investigation initiated by the Office of the Attorney General for the District of Columbia or the U.S. Attorney's Office; and

(N) Revoke, for a period of at least one year, any OSSE granted certification or license granted to an individual who is found to have knowingly and willfully violated, assisted in the violation of, solicited another to violate or assist in the violation of, or failed to report a violation of this paragraph, regulations issued pursuant to this paragraph, other applicable law, or other test integrity policy or procedure.

(O) For the purposes of this paragraph, the term:

(i) "Authorized personnel" means any individual who has access to Districtwide assessment materials or is directly involved in the administration of a Districtwide assessment.

(ii) "Districtwide assessments" shall have the same meaning as provided in § 38-1800.02(13).

(iii) "Local education agency" or "LEA" means the District of Columbia Public Schools system or any individual or group of public charter schools operating under a single charter.

(iv) "Test integrity coordinator" means an individual designated by a LEA to be responsible for testing integrity and security for the LEA in its entirety during the administration of a Districtwide assessment.

(v) "Testing integrity and security agreement" means an agreement developed by OSSE that:

(I) Sets forth requirements for ensuring the integrity of Districtwide assessments pursuant to District law and regulation; and

(II) Requires the signatory to acknowledge that he or she understands that knowingly and willingly violating a District law, regulation, or a test security plan could result in civil liability, including the loss of an OSSE granted certification or license.

(vi) "Test monitor" means an individual designated by a LEA to be responsible for testing integrity and security at each individual school subject to the LEA's control during the administration of a Districtwide assessment; and

(21) Implement and administer the CTE grant program established by § 38-2611 and administer the CTE Grant Program Fund established by § 38-2612.

(c)(1) There is established as a nonlapsing fund the Academic Certification and Testing Fund ("Fund"). All fees collected by the Office of the State Superintendent of Education for state academic credential certifications, general educational development testing, or any other state-level education function established pursuant to subsection (b)(17) of this section shall be deposited into the Fund.

(2) All funds deposited into the Fund, and any interest earned on those funds, shall be used for the purposes set forth in paragraph (3) of this subsection. Any unexpended funds in the Academic Certification and Testing Fund at the end of a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia.

(3) The Fund shall be administered by the State Superintendent of Education and shall be used to support the administration of state academic credential certifications, General Educational Development, and other state-level programs.

(Oct. 21, 2000, D.C. Law 13-176, § 3, 47 DCR 6835; Nov. 13, 2003, D.C. Law 15-39, § 302, 50 DCR 5668; Oct. 20, 2005, D.C. Law 16-33, § 4003(a), 52 DCR 7503; June 12, 2007, D.C. Law 17-9, § 302(c), 54 DCR 4102; Sept. 18, 2007, D.C. Law 17-20, § 4012(a), 54 DCR 7052; July 18, 2008, D.C. Law 17-202, § 607, 55 DCR 6297; Aug. 16, 2008, D.C. Law 17-219, § 4008, 55 DCR 7598;

Mar. 25, 2009, D.C. Law 17-353, § 215(d), 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 4031, 57 DCR 181; Apr. 8, 2011, D.C. Law 18-370, § 404, 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 9057, 58 DCR 6226; June 7, 2012, D.C. Law 19-141, § 303, 59 DCR 3083; Sept. 19, 2013, D.C. Law 20-17, § 102, 60 DCR 9839; Oct. 17, 2013, D.C. Law 20-27, § 201, 60 DCR 11120; Feb. 22, 2014, D.C. Law 20-87, § 2(b), 61 DCR 309.)

Cross references. — Testing integrity, § 38-771.01 et seq.

Section references. — This section is referenced in § 38-208, § 38-302, § 38-771.02, § 38-2602.01, and § 38-2603.

Effect of amendments.

D.C. Law 19-141, in subsec. (b), deleted "and" from the end of par. (17), substituted "; and" for a period the end of par. (18), and added par. (19).

The 2013 amendment by D.C. Law 20-17 substituted "August 1, 2013" for "October 1, 2013" in (b)(19).

The 2013 amendment by D.C. Law 20-27 added (b)(20); and made related changes.

The 2014 amendment by D.C. Law 20-87 rewrote (b)(4); and added the subdivision designated herein as (b)(21) and made related changes.

Emergency legislation.

For temporary addition of provisions concerning state athletic activities, programs, and office revenue generation and sponsorship, see §§ 2 and 3 of the State Athletic Activities, Programs, and Office Revenue Generation and Sponsorship Emergency Act of 2012 (D.C. Act 19-606, January 14, 2013, 60 DCR 1072).

For temporary addition of provisions concerning the State Athletic Activities, Programs, and Office Fund, see §§ 2 and 3 of the State Athletic Activities, Programs, and Office Fund Emergency Act of 2012 (D.C. Act 19-607, January 14, 2013, 60 DCR 1074).

For temporary (90 days) amendment of this section, see § 102 of the Attendance Accountability Emergency Act of 2013 (D.C. Act 20-133, July 30, 2013, 60 DCR 11531, 20 DCSTAT 1973).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of D.C. Law 19-141, § 601, see § 4112 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 38-203.

Legislative history of Law 20-17. — Law 20-17, the "Attendance Accountability Amendment Act of 2013", was introduced in Council and assigned Bill No. 20-72. The Bill was adopted on first and second readings on May 7, 2013 and June 4, 2013, respectively. Signed by the Mayor on June 24, 2013, it was assigned Act No. 20-94 and transmitted to Congress for its review. D.C. Law 20-17 became effective on September 19, 2013.

Legislative history of Law 20-27. — Law 20-27, the "Testing Integrity Act of 2013," was introduced in Council and assigned Bill No. 20-109. The Bill was adopted on first and second readings on June 4, 2013, and June 26, 2013, respectively. Signed by the Mayor on July 23, 2013, it was assigned Act No. 20-120 and transmitted to Congress for its review. D.C. Law 20-27 became effective on October 17, 2013.

Legislative history of Law 20-87. — See note to § 38-2601.02.

Short title.

Section 4111 of D.C. Law 20-61 provided that Subtitle K of Title IV of the act may be cited as the "South Capitol Street Memorial Amendment Act of 2013".

Editor's notes.

Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 601 of D.C. Law 19-141, as amended by D.C. Law 20-61, § 4112, provided that §§ 302(b)(1)(A) and (C) and 304(b)(1)(D) of D.C. Law 19-141 shall apply to public charter schools upon the inclusion of their fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. Section 302(b)(1)(A) of D.C. Law 19-141 added § 38-203(i)(A-i); Section 302(b)(1)(C) of D.C. Law 19-141 added § 38-203(i)(B-i); and Section 304(b)(1)(D) of D.C. Law 19-141 added 5 DCMR § A2103(c)(6).

§ 38-2607. Education Licensure Commission Site Evaluation Fund.

(a) There is established a lapsing fund to be designated as the Education Licensure Commission Site Evaluation Fund ("Fund"), which shall be a segregated account within the General Fund of the District of Columbia, administered by the Office of the State Superintendent of Education, and used for the purposes set forth in subsection (b) of this section.

(b) The Fund shall be used only to cover costs associated with the Education Licensure Commission's review of institutions for licensing purposes under § 38-1306.

(c) All revenues collected by the Education Licensure Commission for evaluations and observations done pursuant to § 38-1306 shall be deposited into the Fund. All funds deposited into the Fund shall be used for the purposes set forth in subsection (b) of this section. Any unexpended funds in the Fund at the end of a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia.

(Oct. 21, 2000, D.C. Law 13-176, § 7a, as added Oct. 20, 2005, D.C. Law 16-33, § 4003(b), 52 DCR 7503; June 12, 2007, D.C. Law 17-9, § 302(f), 54 DCR 4102; Sept. 14, 2011, D.C. Law 19-21, § 9059, 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 98(b), 59 DCR 6190.)

Section references. — This section is referenced in § 38-1306.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 38-2610. Student assessments.

(a)(1) OSSE shall develop and administer all student tests and evaluations required by federal law or as a condition of a federal grant including the yearly student academic assessments that are required for the purposes of determining adequate yearly progress under Title I, Part A, section 1111 of the Elementary and Secondary Education Act of 1965, approved January 8, 2002 (115 Stat. 1444; 20 U.S.C. § 6311).

(2) OSSE may develop and administer:

(A) Districtwide assessments; and

(B) Tests and evaluations for purposes of allowing comparisons with international, national, or state indicators of student achievement; provided, that the test or evaluation be conducted with the smallest sample of students necessary to ensure valid comparisons.

(3) OSSE shall develop guidelines for the administration of practice and field tests, which shall include recommendations on the:

(A) Maximum amount of instructional time per year a school should devote to the administration of practice tests;

(B) Appropriate timing for the administration of field tests; and

(C) Maximum number of field tests in which a school should participate.

(b)(1) An LEA may develop and administer developmentally appropriate tests and evaluations for purposes of assessing student proficiency levels or informing instruction and remediation needs and may establish a policy allowing the tests and evaluations to constitute a portion of a student's final grade; provided, that the test or other evaluation primarily tests content for the course for which the assessment, test, or evaluation is administered and that the policy is provided to its students and parents and made publicly available at the start of the school year.

(2) Each LEA shall limit administration of practice and field tests based upon:

(A) The guidelines as developed by OSSE pursuant to subsection (a)(3) of this section; or

(B) A policy developed by the LEA; provided, that if the LEA develops its own policy, it shall provide the policy to its students and the students' parents and make the policy publicly available before the administration of any practice or field test.

(Oct. 21, 2000, D.C. Law 13-176, § 7d, as added Feb. 22, 2014, D.C. Law 20-84, § 102(c), 61 DCR 178.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-84 added this section.

Legislative history of Law 20-84. — See note to § 38-2601.

§ 38-2611. CTE grant program.

(a) There is established the career and technical education grant program, which shall be administered by OSSE, that, beginning in the 2015-2016 school year, shall provide supplemental funds to DCPS and to public charter schools to support and enhance career and technical education programs.

(b) Grants awarded pursuant to the CTE grant program shall be supplemental to Formula, federal, or other funds received by a school for career and technical education.

(c) By October 1, 2014, OSSE shall issue regulations for the implementation of this section.

(Oct. 21, 2000, D.C. Law 13-176, § 7e, as added Feb. 22, 2014, D.C. Law 20-87, § 2(c), 61 DCR 309.)

Section references. — This section is referenced in § 38-2602.

Effect of amendments. — The 2014 amendment by D.C. Law 20-87 added this section.

Legislative history of Law 20-87. — See note to § 38-2601.02.

§ 38-2612. CTE Grant Program Fund.

(a)(1) There is established the CTE Grant Program Fund, which shall be

administered by OSSE in accordance with subsections (c) and (d) of this section.

(b) The Fund shall consist of the revenue from the following sources:

(1) Annual appropriations, if any; and

(2) Grants, gifts, or subsidies from public or private sources.

(c) Except as provided in subsection (d) of this section, the Fund shall be used solely for the purposes set forth in § 38-2611(a).

(d) The OSSE shall not use more than 5% of the funds in the Fund to pay the administrative expenses associated with managing the CTE grant program.

(e)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund at the end of a fiscal year, or at any other time.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(Oct. 21, 2000, D.C. Law 13-176, § 7f, as added Feb. 22, 2014, D.C. Law 20-87, § 2(c), 61 DCR 309.)

Section references. — This section is referenced in § 38-2601.02 and § 38-2602.

Effect of amendments. — The 2014 amendment by D.C. Law 20-87 added this section.

Legislative history of Law 20-87. — See note to § 38-2601.02.

CHAPTER 26A. STATE BOARD OF EDUCATION.

§ 38-2652. Functions of the Board.

(a) The Board shall:

(1) Advise the State Superintendent of Education on educational matters, including:

(A) State standards;

(B) State policies, including those governing special, academic, vocational, charter, and other schools;

(C) State objectives; and

(D) State regulations proposed by the Mayor or the State Superintendent of Education;

(1A) Oversee the Office of Ombudsman for Public Education in accordance with Chapter 3A of this title [§ 38-351 et seq.], and the Office of the Student Advocate in accordance with Chapter 3B of this title [§ 38-371 et seq.].

(2) Approve state academic standards, following a recommendation by the State Superintendent of Education, ensuring that the standards recommended by the State Superintendent of Education:

(A) Specify what children are expected to know and be able to do;

(B) Contain coherent and rigorous content;

(C) Encourage the teaching of advanced skills; and

(D) Are updated on a regular basis;

(3) Approve high school graduation requirements;

(4) Approve standards for high school equivalence credentials;

(5) Approve a state definition of:

(A) "Adequate yearly progress" that will be applied consistently to all local education agencies;

(B) And standards for "highly qualified teachers," pursuant to the No Child Left Behind Act of 2001, approved January 8, 2002 (115 Stat. 1425; 20 U.S.C. § 6301 et seq.) ("NCLB Act"); and

(C) "Proficiency" that ensures an accurate measure of student achievement;

(6) Approve standards for accreditation and certification of teacher preparation programs of colleges and universities;

(7) Approve the state accountability plan for the District of Columbia developed by the chief state school officer, pursuant to the NCLB Act, ensuring that:

(A) The plan includes a single statewide accountability system that will ensure all local education agencies make adequate yearly progress; and

(B) The statewide accountability system included in the plan is based on academic standards, academic assessments, a standardized system of accountability across all local education agencies, and a system of sanctions and rewards that will be used to hold local education agencies accountable for student achievement;

(8) Approve state policies for parental involvement;

(9) Approve state policies for supplemental education service providers operating in the District to ensure that providers have a demonstrated record of effectiveness and offer services that promote challenging academic achievement standards and that improve student achievement;

(10) Approve the rules for residency verification;

(11) Approve the list of charter school accreditation organizations;

(12) Approve the categories and format of the annual report card, pursuant to the NCLB Act;

(13) Approve the list of private placement accreditation organizations, pursuant to Chapter 29 of this title [§ 38-2901 et seq.];

(14) Approve state rules for enforcing school attendance requirements; and

(15) Approve state standards for home schooling.

(b) The Board shall conduct monthly meetings to receive citizen input with respect to issues properly before it, which may be conducted at a location in a ward.

(c) The Board shall consider matters for policy approval upon submission of a request for policy action by the State Superintendent of Education within a review period requested by the Office of the State Superintendent of Education.

(d)(1) The Board shall, by order, specify its organizational structure, staff, operations, reimbursement of expenses policy, and other matters affecting the Board's functions.

(2) The Board shall appoint staff members, who shall serve at the pleasure of the Board, to perform administrative functions and any other functions necessary to execute the mission of the Board.

(3) Beginning in fiscal year 2013, the Board shall prepare and submit to the Mayor, for inclusion in the annual budget prepared and submitted to the Council pursuant to part D of subchapter IV of Chapter 2 of Title 1 [§ 204.41 et seq.], annual estimates of the expenditures and appropriations necessary for the operation of the Board for the year. All the estimates shall be forwarded by the Mayor to the Council for, in addition to the Mayor's recommendations, action by the Council pursuant to §§ 1-204.46 and 1-206.03(c).

(4) The Board shall be reflected in the budget and financial system as an agency-level entity.

(5) All assets, staff, and unexpended appropriations of the Office of the State Superintendent of Education or of any other agency that are associated with the Board shall be transferred to the Board by April 1, 2013.

(e) For the purposes of this section, the term "state" means District-wide and similar to functions, policies, and rules performed by states on a state-wide basis.

(June 12, 2007, D.C. Law 17-9, § 403, 54 DCR 4102; Mar. 3, 2010, D.C. Law 18-111, § 4032, 57 DCR 181; Apr. 27, 2013, D.C. Law 19-284, § 4, 60 DCR 2312; Feb. 22, 2014, D.C. Law 20-76, § 301, 61 DCR 39.)

Section references. — This section is referenced in § 38-2601 and § 38-2602.

Effect of amendments.

The 2013 amendment by D.C. Law 19-284 rewrote (d).

The 2014 amendment by D.C. Law 20-76 added (a)(1A).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 3 of the State Board of Education Personnel Authority Amendment Emergency Act of 2013 (D.C. Act 20-46, March 27, 2013, 60 DCR 5453, 20 DCSTAT 545).

Legislative history of Law 19-284. — Law 19-284, the "State Board of Education Personnel Authority Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-774. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-651 and transmitted to Congress for its review. D.C. Law 19-284 became effective on April 27, 2013.

Legislative history of Law 20-76. — Law 20-76, the "Parent and Student Empowerment Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-314. The Bill was adopted on first and second readings on November 5, 2013 and December 3, 2013, respectively. Signed by the Mayor on December 16, 2013, it was assigned Act No. 20-242 and transmitted to Congress for its review. D.C. Law 20-76 became effective on February 22, 2014.

SUBTITLE IX. COLLEGE ACCESS ASSISTANCE.

Chapter 27. College Access Assistance.

§ 38-2702. Public school program.

Section references. — This section is referenced in § 38-2704, § 38-2705, and § 38-2706.

Effect of amendments. — Public Law 107-157 rewrote subsecs. (c)(2)(A), (B), and (C); and, in subsec. (i), substituted "and (subject to § 38-2706) such sums" for "and such sums".

§ 38-2704. Private school program.

Section references. — This section is referenced in § 38-2705 and § 38-2706.

Effect of amendments. — Public Law 107-157, in subsec. (c)(1)(B), deleted "the main campus of which is located in the State of Maryland or the Commonwealth of Virginia" at the end of the subparagraph; and, in subsec. (f), substituted "and (subject to § 38-2706) such sums" for "and such sums".

§ 38-2705. General requirements.

Effect of amendments. — Public Law 107-157 rewrote subsec. (b); redesignated subsecs. (e) and (f) as subsecs. (f) and (g); and added new subsecs. (e) and (h). Prior to amendment, subsec. (b) read as follows: "(b) Administrative Expenses.—The Mayor of the District of Columbia may use not more than 7 percent of the funds made available for a program under § 38-2702 or § 38-2704 for a fiscal year to pay the administrative expenses of a program under § 38-2702 or § 38-2704 for the fiscal year."

Chapter 27B. DC Promise Program.

Sec.
38-2751. Definitions.
38-2752. DC Promise establishment; administration.
38-2753. DC Promise Fund.
38-2754. Eligibility.
38-2755. Conditions of participation.
38-2756. DC Promise grants.
38-2757. Adult education.
38-2758. Rules.
38-2759. Applicability.

§ 38-2751. Definitions.

[Not funded].

Legislative history of Law 20- (Act 20-306). — Law 20- (Act 20-306), the "DC Promise Establishment Act of 2014," was introduced in Council and assigned Bill No. 20-528. The Bill was adopted on first and second readings on February 4, 2014, and March 4, 2014, respectively. Signed by the Mayor on March 31, 2014 it was assigned Act No. 20-306 and transmitted to Congress for its review. D.C. Law 20- (Act 20-306) became effective on _____, 2014.

§ 38-2752. DC Promise establishment; administration.

[Not funded].

(_____, 2014, D.C. Law 20- (Act 20-306), § 3, 61 DCR.)

Legislative history of Law 20- (Act 20-306). — See note to § 38-2751.

§ 38-2753. DC Promise Fund.

[Not funded].

(_____, 2014, D.C. Law 20- (Act 20-306), § 4, 61 DCR.)

Legislative history of Law 20- (Act 20-306). — See note to § 38-2751.

§ 38-2754. Eligibility.

[Not funded].

(_____, 2014, D.C. Law 20- (Act 20-306), § 5, 61 DCR.)

Legislative history of Law 20- (Act 20-306). — See note to § 38-2751.

§ 38-2755. Conditions of participation.

[Not funded].

(_____, 2014, D.C. Law 20- (Act 20-306), § 6, 61 DCR.)

Legislative history of Law 20- (Act 20-306). — See note to § 38-2751.

§ 38-2756. DC Promise grants.

[Not funded].

(_____, 2014, D.C. Law 20- (Act 20-306), § 7, 61 DCR.)

Legislative history of Law 20- (Act 20-306). — See note to § 38-2751.

§ 38-2757. Adult education.

[Not funded].

(_____, 2014, D.C. Law 20- (Act 20-306), § 8, 61 DCR.)

Legislative history of Law 20- (Act 20-306). — See note to § 38-2751.

§ 38-2758. Rules.

[Not funded].

(_____, 2014, D.C. Law 20- (Act 20-306), § 9, 61 DCR.)

Legislative history of Law 20- (Act 20-306). — See note to § 38-2751.

§ 38-2759. Applicability.

This chapter shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

(_____, 2014, D.C. Law 20- (Act 20-306), § 10, 61 DCR.)

Legislative history of Law 20- (Act 20-306). — See note to § 38-2751.

SUBTITLE X. SCHOOL FUNDING.

CHAPTER 28. SCHOOL-BASED BUDGETING AND ACCOUNTABILITY.

Subchapter I. General Provisions

Subchapter II. Budgeting

Subchapter I. General Provisions.

§ 38-2803. Multiyear Facilities Master Plan.

(a)(1) Beginning on December 15, 2012 and every 5 years thereafter, the Mayor shall prepare and submit to the Council for its review and approval a comprehensive 5-year Master Facilities Plan for public education facilities, along with a proposed resolution, in accordance with this section. The Council shall vote on the 5-year Master Facilities Plan concurrently with its vote on the Mayor's capital budget proposal. If approved by the Council, the 5-year Master Facilities Plan shall take effect on the first day of the succeeding fiscal year.

(2) The Council shall conduct at least one public hearing on the proposed 5-year Master Facilities Plan before approval.

(3) If, subsequent to Council approval of the 5-year Master Facilities Plan, material changes to the plan become necessary, the Mayor may modify the plan; provided, that any modification shall be submitted to the Council for review and approval along with the Mayor's annual submission of a capital budget recommendation for public schools.

(b)(1) The Mayor shall establish an Office of Public Education Facilities Planning ("OPEFP") within the Office of the Deputy Mayor for Education responsible for the development of the Master Facilities Plan, which shall function as a citywide public education facilities plan.

(1A) Beginning on April 15, 2013, the Department of General Services shall conduct an annual survey to update information on the enrollment, utilization, and condition of each public school facility and shall make the information available to the public on the Mayor's website by December 1st of each year.

(2) The OPEFP shall include in the Master Facilities Plan detailed, current analyses and data on:

(A) The facilities condition assessment for each school building and facility under the control and jurisdiction of the District of Columbia Public Schools;

(B) The capacity of existing schools, current level of utilization, and recommendations for the utilization or reduction of excess space, including, as appropriate, specific recommendations on:

(i) Consolidation;

(ii) Closure; and

(iii) Co-location;

(C) Historical and projected enrollment;

(D) Current and projected demographic information for the surrounding neighborhood;

(E) Other neighborhood issues, in coordination with the Office of Planning;

(F) A school-by-school description relating facility needs and requirements to:

(i) The facility's programmatic usage with specific linkages and relationships to adopted education plans of a local education agency, school district, or institution, including specific plans for special education, early childhood education, and career and technical education programs; and

(ii) The statewide education and youth development plan described in § 38-191, and how it enables schools to be centers of the community;

(G) A detailed facility portfolio analysis that will inform any decisions related to alternative financing options, including public/private development partnerships and co-location opportunities;

(H) A communications and community involvement plan for each school that includes engagement of key stakeholders throughout the community, including:

(i) Local school restructuring teams;

(ii) School improvement teams; and

(iii) Advisory Neighborhood Commissions;

(I) The coordination of the District's education sector with housing, health, and welfare sectors, and with economic development policies and plans;

(J) The location, planning, use, and design of the District's educational facilities and campuses; and

(K) Any school disposition, including a plan delineating the process through which citizen involvement shall be facilitated, and establishing the criteria that will be utilized in disposition decisions, one of which shall be consideration of the impact of any proposed new use of a school building on the neighborhood in which the school building is located;

(3) The following agencies shall work with the OPEFP in the development of the Master Facilities Plan:

(A) The District of Columbia Public Schools, which shall transmit to the OPEFP educational plans and policies it considers relevant to the facilities planning process and provide the educational specifications for each facility subject to modernization;

(B) The Public Charter School Board, which shall:

(i) Transmit to the OPEFP educational plans and policies of individual public charter schools, data on existing public charter school facilities and facilities-related needs, and other information considered relevant to the planning process; and

(ii) Establish a Public Charter School facilities registry in which individual public charter schools will have the opportunity to register to receive facilities planning and technical support from the OPEFP, including the analyses and data compiled pursuant to paragraph (2) of this subsection;

(C) The Office of Planning, which shall provide demographic and neighborhood data support; and

(D) The Office of Public Education Facilities Modernization, which shall implement the Master Facilities Plan consistent with the policy priorities set forth in this chapter.

(4) Of the fiscal year 2011 capital funds appropriated to the Office of Public Education Facilities Modernization, it shall transfer:

(A) Up to $500,000 to the Office of the Deputy Mayor for Education to support capital planning pursuant to subsection (b)(1) of this section; and

(B) An amount of $100,000 to the District of Columbia Public Schools and $100,000 to the Public Charter School Board to support capital planning activities as provided in paragraph (3) of this subsection.

(c) In developing the Facilities Master Plan, the Mayor shall consider the facilities needs of all public school students and shall consult with:

(1) The Council;

(2) The Director of the Office of Public Education Facilities Modernization;

(3) The Public Charter School Board;

(4) Representatives of public charter schools;

(5) The Public School Modernization Advisory Committee; and

(6) Key stakeholders throughout the community.

(d)(1) Beginning in fiscal year 2010, a Public School Facility capital improvement plan ("School Facility CIP") shall be updated each fiscal year as part of the Mayor's capital improvement plan for all public facilities, as required by § 1-204.44.

(2)(A) The School Facility CIP shall include for each school and other education facilities of DCPS and public charter schools, the following information:

(i) A description of the scope of work to be done and schedule of major milestones;

(ii) Justification for the work pursuant to the Master Facilities Plan;

(iii) A full-funded cost estimate of improvements planned for the next fiscal year and the succeeding 5 fiscal years;

(iv) The estimated cost of operating the improved facility, whether the new cost is more or less than the previous School Facility CIP estimate;

(v) The amount of capital funds expended in the prior fiscal year; and

(vi) The name, address, and ward of each project.

(B) Each School facility CIP shall:

(i) Meet the requirements listed in subsection (b) of this section;

(ii) Give due consideration to the record established by the testimony, and any exhibits, during the hearing required by paragraph (3) of this subsection; and

(iii) Be consistent with the policy of broad public participation, as stated in this section.

(3)(A) No more than 60 days or less than 30 days prior to the Mayor's submission of a School Facility CIP to the Council, and upon 15 days public notice, the Mayor shall conduct a public hearing to solicit the views of the public. In no event shall the hearing be prior to the annual submission by the Office of Public Education Facilities Modernization of its proposed budget to the Mayor.

(B) The Mayor shall transmit the record of the hearing to the Council at or before the public hearing on the annually submitted proposed budget for Office of Public Education Facilities Modernization.

(Mar. 26, 1999, D.C. Law 12-175, § 1104, 45 DCR 7193; Oct. 20, 2005, D.C. Law 16-33, § 4047, 52 DCR 7503; June 8, 2006, D.C. Law 16-123, § 221, 53 DCR 2843; June 12, 2007, D.C. Law 17-9, § 1009, 54 DCR 4102; Mar. 3, 2010, D.C. Law 18-111, § 4071, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 4122, 57 DCR 6242; Sept. 20, 2012, D.C. Law 19-168, § 4012, 59 DCR 8025.)

Section references. — This section is referenced in § 1-325.44 and § 38-1805.52.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 rewrote (a); added (b)(1A) and (b)(2)(K); and made related changes.

Emergency legislation.

For temporary (90 days) approval of the 2013 Master Facilities Plan for public education facilities, see § 4082 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) approval of the 2013 Master Facilities Plan for public education facilities, see § 4082 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Short title.

Section 4081 of D.C. Law 20-61 provided that Subtitle H of Title IV of the act may be cited as the "Public Education Master Facilities Plan Approval Act of 2013".

Editor's notes.

Section 4082 of D.C. Law 20-61 provided that the Council approves the 2013 Master Facilities Plan for public education facilities submitted by the Mayor on March 28, 2013.

Subchapter II. Budgeting.

§ 38-2831. Budget submission requirements.

(a) The Chancellor of the District of Columbia Public Schools ("Chancellor") shall prepare and execute a performance-based budget on an annual basis. The budget prepared by the Chancellor shall have its operations organized by major programs, which in turn will be composed of activities and services. The budget submitted by the Chancellor shall allocate all monies by revenue source for programs, activity, and service levels, and by revenue source for comptroller

source group by program and activity. The District of Columbia Public Schools ("DCPS") submission shall include the number of full-time equivalents with job titles by program and revenue source.

(b) The DCPS submission shall also include a delineation of:

(1) All funds budgeted for each school, by revenue source for activities and service levels, and by revenue source for comptroller source group by activities and service levels;

(2) The programs and services, along with a narrative description of each program and service, to be supported by the allowable maximum 5% allocation for central administration functions as prescribed in § 38-2907.01; and

(3) All funds not allocated directly to a school or to central administration functions, by revenue source for activities and service levels, and by revenue source for comptroller source group by activities and service levels, including a presentation of:

(A) Any funds that will support costs associated with programs and services provided at the school level or directly to students; and

(B) Any funding associated with at-risk students, as defined in § 38-2901(2A), that has been retained by the Chancellor.

(c) No later than 21 days before the Mayor's submission of the District's budget and financial plan to the Council, the Chancellor shall, annually, make available on the DCPS website and post at each school a detailed estimate, in accordance with this section, of the amount of money required to operate the public schools for the ensuing year, including preliminary school-by-school budgets.

(d) The Mayor's annual submission of the District's budget and financial plan to the Council shall include as an attachment an accurate and verifiable report on the positions and employees of the District of Columbia Public Schools to include:

(1) A compilation of DCPS Schedule A positions for the ensuing fiscal year on a full-time equivalent basis, including a compilation of all positions by organization Level 4, job title, pay plan and grade, program and activity, revenue fund, and annual salary; and

(2) A compilation of all DCPS employees as of the preceding March 1, on a full-time equivalent basis, including a compilation of all positions by organization Level 4, job title, pay plan, grade, and step, program and activity, revenue fund, and annual salary.

(e) No later than October 30 of each year, the Mayor shall submit to the Council a revised appropriated funds operating budget for DCPS for the fiscal year beginning on the preceding October 1 that sets forth the total amount of the approved appropriation and that realigns budgeted data with anticipated actual expenditures with the specification set forth in of subsections (a) and (b) of this section.

(f) Beginning in fiscal year 2011, the Mayor shall submit to the Council quarterly financial reports for DCPS setting forth by organization Level 4 approved budget, revised budget, actual expenditures and funds obligated to date, and projected expenditures for the full fiscal year.

(Dec. 7, 2004, D.C. Law 15-211, § 6, 51 DCR 8805; Mar. 21, 2009, D.C. Law

17-325, § 4, 56 DCR 499; Sept. 24, 2010, D.C. Law 18-223, § 4032, 57 DCR 6242; Feb. 22, 2014, D.C. Law 20-87, § 3, 61 DCR 309.)

Effect of amendments.

The 2014 amendment by D.C. Law 20-87 rewrote (b).

Legislative history of Law 20-87. — Law 20-87, the "Fair Student Funding and School-Based Budgeting Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-309. The Bill was adopted on first and second readings on December 3, 2013, and December 17, 2013, respectively. Signed by the Mayor on January 2, 2014, it was assigned Act No. 20-257 and transmitted to Congress for its review. D.C. Law 20-87 became effective on February 22, 2014.

CHAPTER 29. UNIFORM PER STUDENT FUNDING FORMULA.

Subchapter I. General

Subchapter I. General.

§ 38-2901. Definitions.

For the purposes of this chapter, the term:

(1) "Adult education" means services or instruction below the college level for adults who:

(A) Lack sufficient mastery of basic educational skills to enable them to function effectively in society;

(B) Do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education; or

(C) Have limited ability in speaking, reading, writing, or understanding the English language and whose native language is a language other than English.

(1A) "Allowable special education costs" means costs incurred for the following purposes:

(A) Instruction, salaries, benefits, supplies, textbooks, and other expenses, including:

(i) The cost of salaries and benefits of special education program teachers, regular program teachers, and teacher aides, allocated to the corresponding working time that each person devotes to special education, including services required by an individualized education program;

(ii) Teaching supplies and textbooks for special education programs;

(iii) The purchase, rental, repair, and maintenance of instructional

equipment required to implement a student's individualized education program;

(iv) Professional development activities for teachers who work with, or provide services to, students with disabilities;

(v) Contracted services, including fees paid for professional services, advice, and consultation regarding children with disabilities under the IDEA, and the delivery of special education services by public or private entities; and

(vi) Transportation costs for special education instructional personnel who travel on an itinerant basis from school to school or to in-state and out-of-state individualized education program meetings;

(B) Related services as defined in 34 CFR § 300.34 and supplementary aids and services as defined in 34 CFR § 300.42 and also including the following:

(i) Salaries and benefits of professional supportive personnel, corresponding to the working time that each person devotes to implementing services required pursuant to an individualized education program ("IEP") as defined in 34 CFR § 300.22.

(ii) Salaries and benefits of clerical personnel who assist professional personnel in supportive services, corresponding to the working time that each person devotes to special education services or program;

(iii) Supplies for related services and supplementary aids and services;

(iv) Contracted services, including fees paid for professional advice and consultation regarding children with disabilities under the IDEA or related services and supplementary aids and services, and the delivery of such services by public or private agencies;

(v) Transportation for special education-related services personnel and providers of supplementary aides who travel from school to school or to in-state and out-of-state individualized education program meetings; and

(vi) Equipment purchase, rental, repair, and maintenance required to implement related services and supplementary aids and services as required by a student's individualized education program;

(C) Administrative expenses related to the direct implementation of IDEA Part B programmatic and fiscal requirements within the public school, including:

(i) Salaries and benefits of staff who ensure programmatic and fiscal requirements of IDEA are being implemented, corresponding to the working time that each person devotes to the implementation of IDEA;

(ii) Contracted services, including fees paid for professional services, advice, and consultation regarding the implementation of IDEA, and the delivery of special education services to students with IEPs by public or private entities;

(D) Assistive technology devices for students with IEPs, not including medical devices surgically implanted (i.e., cochlear implant);

(E) Implementation of due process hearing decisions;

(F) Implementation of compensatory education plans;

(G) Implementation of coordinated early intervening services programs (CEIS) as defined in 34 CFR § 300.226; and

(H) Transition of a student back into public schools in the District who, as a result of an IEP decision or due process hearing decision, is currently attending non-public schools.

(1B) "Alternative program" means specialized instruction for students under court supervision or on short- and long-term suspension, or who have been chronically truant or expelled from a regular District of Columbia Public School or public charter school academic program. To qualify as an alternative program, a school must meet the criteria and rules set by the State Education Office. An alternative program may describe an entire school or a specialized program within a school.

(2) Repealed.

(2A) "At-risk" means a DCPS student or a public charter school student who is identified as one or more of the following:

(A) Homeless;

(B) In the District's foster care system;

(C) Qualifies for the Temporary Assistance for Needy Families program or the Supplemental Nutrition Assistance Program; or

(D) A high school student that is one year older, or more, than the expected age for the grade in which the student is enrolled.

(2B) "Central administration" means the functions necessary for the governance of a school district as a whole, including general oversight and management of support services such as procurement, human resources, and financial administration. The term "central administration" does not include any functions that are:

(A) Budgeted at the individual school level; or

(B) Budgeted centrally and which support costs associated with programs and services provided at the school level or directly to students.

(3) "Consumer Price Index" ("CPI") means the Consumer Price Index for all urban consumers for Washington, DC-MD-VA, Index Base Period 1982-84 or its successor, as issued by the United States Department of Labor, Bureau of Labor Statistics.

(4) "District of Columbia Public Schools" ("DCPS") means the public local education system under the control of the Board of Education or of the Emergency Transitional Education Board of Trustees in its function. The term does not include Public Charter Schools.

(5) "Foundation" or "foundation level" means the amount of funding per weighted student needed to provide adequate regular education services to students. Regular education services do not include special education, language minority education, summer school, capital costs, state education agency functions or services funded through federal and other non-appropriated revenue sources.

(6) "Full-time equivalent" means student enrollment the equal of:

(A) Five hours or more per school day for a minimum of 180 school days for students enrolled in grades pre-school through 12; or

(B) Three hours per day for a minimum of 4 days per week for 36 weeks per school year for adult enrollment.

(6A) "Intensive Program of Special Education Services" means specialized special education services of at least 30 hours per student per week for

students with one or more disabling conditions in a self-contained setting during regular school hours.

(7) "Limited English Proficient/Non-English Proficient" ("LEP/NEP") means students identified in accordance with federal law as entitled to English as a second language or bilingual services on the basis of their English language proficiency.

(8) "Per student funding formula" ("Formula") means the formula used to determine annual operating funding for DCPS and Public Charter Schools on a uniform per student basis, pursuant to § 38-1804.01.

(9) "Public Charter School" means a publicly funded school established pursuant to subchapter II of Chapter 18 of this title; and except as provided in §§ 38-1802.12(d)(5) and 38-1802.13(c)(5), is not a part of the DCPS.

(10) "Residential school" means a DCPS or Public Charter School that provides students with room and board in a residential setting, in addition to their instructional program.

(10A) "Resident student" means a minor enrolled in a District of Columbia public school or public charter school who has a parent, guardian, or custodian residing in the District of Columbia or an adult enrolled in a District of Columbia public school or a public charter school who resides in the District of Columbia as determined pursuant to Chapter 3 of this title [§ 38-302 et seq.].

(10B) "Self-Contained (Dedicated) Special Education School" means a school that has the capacity to provide all the facilities and services needed to meet the educational and therapeutic needs of its students, which may share a campus or only a building with a general education school.

(11) "Special education" means specialized services for students identified as having disabilities, as provided in section 101(a)(1) of the Individuals with Disabilities Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1401(a)(1)), or students who are individuals with a disability as provided in section 7(8) of the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 359; 29 U.S.C. § 706(8)).

(11A) "Special Education Capacity Fund" means funds provided to public schools through the Formula to support activities required to improve the quality of special education programming available to students and to ensure that all personnel necessary to carry out Part B of the Individuals with Disabilities Education Act ("IDEA") pursuant to 34 CFR § 300.207, are appropriately and adequately prepared, subject to the requirements of 34 CFR § 300.156 related to personnel qualifications for teachers, related service providers, and paraprofessionals.

(11B) "Special Education Compliance Fund" means funds provided to public schools through the "Formula" to support activities required to address identified noncompliance with federal and local laws and regulations regarding the provision of special education services to students with disabilities.

(11C) "Special Education Payment" means funding appropriated by the District through the "Formula" in the following budget categories: Special education schools, Special Education Add-ons, Special Education Capacity Fund, Special Education Compliance Fund, Residential Add-ons for Special Education, and Special Education Add-ons for Students with Extended School Year ("ESY") Indicated in Their Individualized Education Programs.

(11D) "Special Education School" means a separate DCPS or public charter day school or residential school dedicated exclusively to serving special education students at levels 4 or 5.

(12) "State level costs" means costs incurred by the DCPS in its function as a state education agency, including the census of minors pursuant to § 38-204, impact aid surveys, issuance of work permits, conduct of hearings and appeals, employee certification, administration of federal aid to agencies or institutions outside of the DCPS or Public Charter Schools administration. For purposes of the Formula, transportation of students with disabilities and payment of tuition for private placements of children with disabilities are considered state level costs.

(13) "Summer school" means an accelerated instructional program provided outside the regular school year of 180 days for students in targeted grades or grade spans pursuant to promotion policies of the District of Columbia Public Schools and public charter schools.

(14) "Weighting" is a multiplication factor applied to the foundation cost for student counts in certain grade levels or special needs programs to account for differences in the cost of educating these students.

(Mar. 26, 1999, D.C. Law 12-207, § 102, 45 DCR 8095; Oct. 1, 2002, D.C. Law 14-190, § 3402(a), 49 DCR 6968; Apr. 13, 2005, D.C. Law 15-348, 101(a), 52 DCR 1991; Mar. 2, 2007, D.C. Law 16-192, § 4002(a), 53 DCR 6899; Apr. 24, 2007, D.C. Law 16-305, § 57(a), 53 DCR 6198; Sept. 18, 2007, D.C. Law 17-20,§ 4002(a), 54 DCR 7052; Sept. 14, 2011, D.C. Law 19-21, § 4003(a), 58 DCR 6226; Feb. 22, 2014, D.C. Law 20-87, § 4(a), 61 DCR 309.)

Section references. — This section is referenced in § 38-1804.01, § 38-2601.02, § 38-2652, § 38-2831, and § 38-2905.

Effect of amendments.

The 2014 amendment by D.C. Law 20-87 added (2A) and (2B).

Legislative history of Law 20-87. — Law 20-87, the "Fair Student Funding and School-Based Budgeting Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-309. The Bill was adopted on first and second readings on December 3, 2013, and December 17, 2013, respectively. Signed by the Mayor on January 2, 2014, it was assigned Act No. 20-257 and transmitted to Congress for its review. D.C. Law 20-87 became effective on February 22, 2014.

§ 38-2903. Foundation level.

The foundation level or cost of providing public education services is $9,306 per student for fiscal year 2014 and subsequent fiscal years. The foundation level may be revised in subsequent years in accordance with provisions for inflation, revenue unavailability, and periodic review and revision of the Formula, pursuant to §§ 38-2909, 38-2910, and 38-2911.

(Mar. 26, 1999, D.C. Law 12-207, § 104, 45 DCR 8095; Oct. 1, 2002, D.C. Law 14-190, § 3402(b), 49 DCR 6968; June 5, 2003, D.C. Law 14-307, § 102(a), 49 DCR 11664; Nov. 13, 2003, D.C. Law 15-39, § 312(a), 50 DCR 5668; Dec. 7, 2004, D.C. Law 15-205, § 4002(a), 51 DCR 8441; Oct. 20, 2005, D.C. Law 16-33, § 4012(a), 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 4002(b), 53 DCR 6899; Sept. 18, 2007, D.C. Law 17-20, § 4002(b), 54 DCR 7052; Aug. 16, 2008, D.C. Law 17-219, § 4016(a), 55 DCR 7598; Sept. 24, 2010, D.C. Law

18-223, § 4022(a), 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-370, § 402(a), 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 4003(b), 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 4002(a), 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 4002(a), 60 DCR 12472.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "$9,124 per student for fiscal year 2013" for "$8,945 per student for fiscal year 2012" in the first sentence.

The 2013 amendment by D.C. Law 20-61 substituted "$9,306 per student for fiscal year 2014" for "$9,124 per student for fiscal year 2013" in the first sentence.

Emergency legislation.

For temporary (90 day) amendment of section, see § 4002(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4002(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of this section, see § 4002(a) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 4002(a) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title.

Section 4001 of D.C. Law 20-61 provided that Subtitle A of Title IV of the act may be cited as the "Funding for Public Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 38-2904. Weightings applied to counts of students enrolled at certain grade levels.

The student counts at certain grade levels and in certain programs shall be weighted to provide an amount per student differing from the basic foundation level in accordance with the following schedule:

Grade Level	Weighting	Per Pupil Allocation in FY 2014
Pre-School	1.34	$12,470
Pre-Kindergarten	1.30	$12,098
Kindergarten	1.30	$12,098
Grades 1-3	1.00	$9,306
Grades 4-5	1.00	$9,306
Grades 6-8	1.03	$9,585
Grades 9-12	1.16	$10,795
Alternative Program	1.17	$10,888
Special education school	1.17	$10,888

Grade Level	Weighting	Per Pupil Allocation in FY 2014
Adult	0.75	$6,980

(Mar. 26, 1999, D.C. Law 12-207, § 105, 45 DCR 8095; Oct. 1, 2002, D.C. Law 14-190, § 3402(c), 49 DCR 6968; June 5, 2003, D.C. Law 14-307, § 102(b), 49 DCR 11664; Nov. 13, 2003, D.C. Law 15-39, § 312(b), 50 DCR 5668; Dec. 7, 2004, D.C. Law 15-205, § 4002(b), 51 DCR 8441; Oct. 20, 2005, D.C. Law 16-33, § 4012(b), 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 61, 53 DCR 6794; Mar. 2, 2007, D.C. Law 16-192, § 4002(c), 53 DCR 6899; Sept. 18, 2007, D.C. Law 17-20, § 4002(c), 54 DCR 7052; Aug. 16, 2008, D.C. Law 17-219, § 4016(b), 55 DCR 7598; Mar. 3, 2010, D.C. Law 18-111, § 4002(a), 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 4022(b), 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-370, § 402(b), 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 4003(c), 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 4002(b), 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 4002(b), 60 DCR 12472.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 rewrote the schedule.

The 2013 amendment by D.C. Law 20-61 rewrote the schedule.

Emergency legislation.

For temporary (90 day) amendment of section, see § 4002(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4002(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of this section, see § 4002(b) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 4002(b) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — See note to § 38-2903.

Legislative history of Law 20-61. — See note to § 38-2903.

Short title.

Section 4001 of D.C. Law 20-61 provided that Subtitle A of Title IV of the act may be cited as the "Funding for Public Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 38-2905. Supplement to foundation level funding on the basis of the count of special education, LEP/NEP, summer school, and residential school students.

(a) In addition to grade level allocations, supplemental allocations shall be provided on the basis of the count of students identified as entitled to and receiving:

(1) Special education;

(2) English as a second language or bilingual education services;

(3) Summer school instruction for students who do not meet literacy standards pursuant to promotion policies of the DCPS or Public Charter Schools as defined in § 38-1804.01(b)(3)(B)(ii); and

(4) Extended school days.

(b) Supplemental allocations shall be provided for each student in full-time residence at a residential DCPS or Public Charter School.

(c) The supplemental allocations shall be calculated by applying weightings to the foundation level as follows:

General Education Add-ons:

Level/Program	Definition	Weighting	Per Pupil FY 2014
LEP/NEP	Limited and non-English proficient students	0.45	$4,188
Summer	An accelerated instructional program in the summer for students who do not meet literacy standards pursuant to promotion policies of the District of Columbia Public Schools and public charter schools	0.17	$1,582

Special Education Add-ons:

Level/Program	Definition	Weighting	Per Pupil FY 2014
Level 1: Special Education	Eight hours or less per week of specialized services	0.58	$5,397
Level 2: Special Education	More than 8 hours and less than or equal to 16 hours per school week of specialized services	0.81	$7,538

Level/Program	Definition	Weighting	Per Pupil FY 2014
Level 3: Special Education	More than 16 hours and less than or equal to 24 hours per school week of specialized services	1.58	$14,703
Level 4: Special Education	More than 24 hours per week which may include instruction in a self-contained (dedicated) special education school other than residential placement	3.10	$28,849
Special Education Capacity Fund	Weighting provided in addition to special education level add-on weightings on a per student basis for each student identified as eligible for special education	0.40	$3,722
Residential	D.C. Public School or public charter school that provides students with room and board in a residential setting, in addition to their instructional program	1.70	$15,820

Residential Add-ons:

Level/Program	Definition	Weighting	Per Pupil FY 2014
Level 1: Special Education — Residential	Additional funding to support the after-hours level 1 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	0.374	$3,480
Level 2: Special Education — Residential	Additional funding to support the after-hours level 2 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	1.360	$12,656
Level 3: Special Education — Residential	Additional funding to support the after-hours level 3 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	2.941	$27,369

Level/Program	Definition	Weighting	Per Pupil FY 2014
Level 4: Special Education — Residential	Additional funding to support the after-hours level 4 special education needs of limited and non-English proficient students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	2.924	$27,211
LEP/NEP — Residential	Additional funding to support the after-hours Limited and non-English proficiency needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	0.68	$6,328

Special Education Add-ons for Students with Extended School Year ("ESY") Indicated in Their Individualized Education Programs ("IEPs"):

Level/Program	Definition	Weighting	Per Pupil FY 2014
Special Education Level 1 ESY	Additional funding to support the summer school/ program need for students who require extended school year (ESY) services in their IEPs	0.064	$596

Level/Program	Definition	Weighting	Per Pupil FY 2014
Special Education Level 2 ESY	Additional funding to support the summer school/ program need for students who require extended school year (ESY) services in their IEPs	0.231	$2,150
Special Education Level 3 ESY	Additional funding to support the summer school/ program need for students who require extended school year (ESY) services in their IEPs	0.500	$4,653
Special Education Level 4 ESY	Additional funding to support the summer school/ program need for students who require extended school year (ESY) services in their IEPs	0.497	$4,625

(d) The above weightings shall be applied cumulatively in the counts of students who fall into more than one of the above categories.

(e)(1) The summer school weighting of 0.17 shall apply to DCPS and public charter school students enrolled for at least 6 weeks for the purpose described in § 38-2901(13). Summer school students enrolled for a lesser period shall be funded for the number of days in that period on a pro-rata basis.

(2) To receive funding, a DCPS or public charter school summer school program must offer at least 60 hours of instruction outside the regular school year.

(3) To receive full funding, a summer school program must offer at least 4 hours of instruction per day, 5 days a week, for 6 weeks, or its equivalent, for a total of at least 120 hours of instruction outside the regular school year for the purpose described in § 38-2901(13).

(4) The fully funded summer school weighting of 0.17 shall apply for summer school programs that meet the requirements of paragraph (3) of this subsection.

(5) Summer school programs that enroll students for less than 120 hours but more than 59 hours shall be funded on a pro-rata basis.

(f)(1) Funding for special education students enrolled in summer school whose Individual Education Plans require extended school year or summer school services shall be calculated using the add-on weights corresponding to their special education service levels as defined in subsection (c) of this section.

(2) Special education add-on weights for summer school shall apply only to summer programs that deliver the specialized services required by the Individual Education Plans of their enrolled special education students.

(g) The supplemental allocation for the extended school day shall be subject to the inclusion of its fiscal effect in an approved budget.

(Mar. 26, 1999, D.C. Law 12-207, § 106, 45 DCR 8095; Oct. 19, 2000, D.C. Law 13-172, § 2702, 47 DCR 6308; Oct. 3, 2001, D.C. Law 14-28, § 502, 48 DCR 6981; Oct. 1, 2002, D.C. Law 14-190, § 3402(d), 49 DCR 6968; June 5, 2003, D.C. Law 14-307, § 102(c), 49 DCR 11664; Nov. 13, 2003, D.C. Law 15-39, § 312(c), 50 DCR 5668; Dec. 7, 2004, D.C. Law 15-205, § 4002(c), 51 DCR 8441; Apr. 13, 2005, D.C. Law 15-348, § 101(b), 52 DCR 1991; Oct. 20, 2005, D.C. Law 16-33, § 4012(c), 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192,§ 4002(d), 53 DCR 6899; Sept. 18, 2007, D.C. Law 17-20, § 4002(d), 54 DCR 7052; Aug. 16, 2008, D.C. Law 17-219, § 4016(c), 55 DCR 7598; Mar. 3, 2010, D.C. Law 18-111, § 4002(b), 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 4022(c), 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-370, § 402(c), 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 4003(d), 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 4002(c), 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 95(a), 59 DCR 6190; Dec. 24, 2013, D.C. Law 20-61, § 4002(c), 60 DCR 12472.)

Section references. — This section is referenced in § 38-1804.01.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 rewrote (c).

The 2012 amendment by D.C. Law 19-171 made a correction to the D.C. Law 18-111 version of subsection (c).

The 2013 amendment by D.C. Law 20-61 rewrote the table in (c).

Emergency legislation.

For temporary (90 day) amendment of section, see § 4002(c) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4002(c) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of this section, see § 4002(c) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 4002(c) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — See note to § 38-2903.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Legislative history of Law 20-61. — See note to § 38-2903.

Short title. — Section 4001 of D.C. Law 20-61 provided that Subtitle A of Title IV of the act may be cited as the "Funding for Public Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 pro-

vided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 38-2905.01. Supplement to foundation level funding on the basis of the count of at-risk students.

[Not funded].

(Mar. 26, 1999, D.C. Law 12-207, § 106a, as added Feb. 22, 2014, D.C. Law 20-87, § 4(b), 61 DCR 309.)

Section references. — This section is referenced in § 38-2907.01.

Effect of amendments. — The 2014 amendment by D.C. Law 20-87 added this section.

Legislative history of Law 20-87. — Law 20-87, the "Fair Student Funding and School-Based Budgeting Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-309. The Bill was adopted on first and second readings on December 3, 2013, and December 17, 2013, respectively. Signed by the Mayor on January 2, 2014, it was assigned Act No. 20-257 and transmitted to Congress for its review. D.C. Law 20-87 became effective on February 22, 2014.

Editor's notes. — Applicability of D.C. Law 20-87: Section 5 of D.C. Law 20-87 provided that § 4(b) of the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

§ 38-2906.02. Payments to public charter schools.

(a) The Mayor shall make payments to each public charter school from the escrow account established under § 38-1804.03 to a bank designated by each school. The annual payment shall be made in the form of quarterly payments calculated in accordance with this section; provided, that the entire annual payment for facilities calculated pursuant to § 38-2908 shall be included in the first payment of the fiscal year and that any payment for new charter schools determined pursuant to § 38-1804.03 shall also be included in the first payment of the fiscal year. The first payment shall be made no later than July 15. Subsequent payments shall be made no later than October 25, January 15, and April 15.

(b) Payments shall be determined as follows:

(1) The basis of the July 15 payment to a public charter school shall be the estimate used in the June 30 quarterly reports submitted by the eligible chartering authorities pursuant to § 38-1804.02(a) and shall be 30% of the school's entitlement.

(2) The basis of the October 25 payment shall be the unaudited October enrollment numbers for that school contained in the reports submitted by the eligible chartering authorities on October 5 and shall be equal to 55% of the school's entitlement less amounts paid in July.

(3) The basis of the January 15 payment shall be the unaudited October enrollment numbers for that school contained in reports submitted by the eligible chartering authorities on October 5 and shall be equal to 80% of the school's entitlement less amounts paid in July and October.

(4) The basis of the April 15 payment shall be the audited October enrollment numbers and shall be equal to 100% of the school's entitlement less amounts paid in July, October, and January; provided, that these amounts

shall be adjusted in accordance with the provisions of subsection (c) of this section.

(c) Payments shall not be reduced or delayed pending the conduct and results of the audit prescribed by § 38-2906(d). If the audit finds that the number of verified resident students enrolled at any public charter school differs from that on which its July 15 and October 25 payments were based, the Mayor shall recalculate the appropriate amount of subsequent payments accordingly, adjusting them by the amount of the discrepancy.

(d)(1) Payments for special education, limited English proficient students, and other add-on components of the Funding Formula shall be included in the quarterly payments to public charter schools. Payments shall reflect one-quarter of the annual per student amount for each add-on; provided, that add-ons for special education and limited English proficient students shall be added on a pro-rata basis from the date on which a public charter school begins to provide add-on services for such students, as set forth in subsection (g) of this section.

(2)(A) Payments for summer school shall be made by the Chief Financial Officer on April 15 on the basis of a funding schedule from the District of Columbia Public Charter School Board listing each charter school offering a summer school program in accordance with the requirements of § 38-1804.01(b)(3)(B).

(B) The Office of the State Superintendent of Education shall certify enrollment projections based upon information contained in the state education longitudinal data system that form the basis of the funding schedule. The payment amount shall be equal to 75% of the total summer school entitlement for each charter school.

(C) Not later than August 25 of each year, the Office of the State Superintendent of Education shall certify the final actual summer school enrollment for each charter school. The final payment for summer school will be issued to each charter school not later than September 30 of each year and shall be equal to the remainder of the school's entitlement.

(3) Payments for the Special Education Extended School Year add-on shall be made in full to each charter school by the Chief Financial Officer following certification of the actual enrollment for each school by the Office of the State Superintendent of Education.

(e) Prior to, or concurrent with, any payment made pursuant to this section, the Chief Financial Officer of the District of Columbia shall provide to each public charter school an accounting indicating the purpose of the payment and how the payment was calculated.

(f) During any period in which payments to public charter schools become due on a date when District funding is authorized pursuant to a continuing resolution rather than pursuant to an appropriations act, the Chief Financial Officer of the District of Columbia shall provide payments for new public charter schools and increased enrollments in other public charter schools from any unexpended and unobligated funds.

(g) Upon application to the Chief Financial Officer of the District of Columbia, charter schools offering alternative education or special education

services may receive payment for eligible students enrolling after October 5, on a pro-rata basis from the date on which the school begins to provide services to that student; provided, that the student represents a net increase to the school's enrollment as of October 5. The pro-rata payments for special education students enrolling after October 5 based on the public charter school's predetermined enrollment schedule shall be disbursed in addition to the quarterly payments at the discretion of the Chief Financial Officer.

(h) If an eligible charter authority proposes to revoke the charter of a public charter school as described in § 38-1802.13 during any period prior to a July 15 payment, consistent with this section, the Office of the State Superintendent of Education ("OSSE") shall hold the July 15 payment in escrow pending a final decision by the eligible charter authority. Upon a final revocation decision, the Mayor shall have no obligation to release the escrow funds. The OSSE, in its discretion, may approve the distribution of the July 15 payment as it considers appropriate.

(Mar. 26, 1998, D.C. Law 12-207, § 107b, as added Apr. 13, 2005, D.C. Law 15-348, § 101(d), 52 DCR 1991; Oct. 20, 2005, D.C. Law 16-33, § 4012(e), 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 4002(f), 53 DCR 6899; Sept. 14, 2011, D.C. Law 19-21, § 4032, 58; Dec. 24, 2013, D.C. Law 20-61, § 4022, 60 DCR 12472.)

Section references. — This section is referenced in § 38-1804.03.

Effect of amendments.

The 2013 amendment by D.C. Law 20-61 rewrote (a) and (b); designated the existing text of (d) as (d)(1) and added "as set forth in subsection (g) of this section" to the end; and added (d)(2) and (d)(3).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 4022 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 4022 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 38-2903.

Short title.

Section 4021 of D.C. Law 20-61 provided that Subtitle B of Title IV of the act may be cited as the "Public Charter Schools Payment Improvement Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 38-2907.01. DCPS budget.

(a) The annual operating budget for DCPS shall:

(1) Allocate no more than 5% of its gross budget to central administration;

(2) Provide each school with not less than 95% of its prior year allocation of Formula funds, excluding those Formula funds directed to a school pursuant to paragraph (3) of this section; provided, that a school may receive less than 95% of such funds if that school is eliminating one or more grade levels offered at the school, faces a budgetary reduction due to the closing or consolidation of one school into another, or is undergoing a substantial instructional or programmatic change and the Chancellor includes in the budget submission to the Council a written justification for the greater than 5% reduction; provided further, that this paragraph shall not apply if the total Formula allocation to

DCPS, excluding those Formula funds generated pursuant to § 38-2905.01, is reduced by more than 5% from its prior year allocation; and

(3) Direct no less than 90% of the funds allocated to DCPS pursuant to § 38-2905.01 to school-level budgets and distribute such funds to schools proportionally based upon the number of at-risk students within each school's projected student count.

(b)(1) Funds provided to schools pursuant to subsection (a)(3) of this section shall be available to the principal to use at the principal's discretion, in consultation with the school's local school advisory team, for the purpose of improving student achievement among at-risk students; provided, that the principal submits to the Chancellor and makes publicly available a written plan explaining with particularity how the use of the funds will improve student achievement among at-risk students before the use of any such funds. The Chancellor may review and amend the plan as submitted by a principal. If the Chancellor amends a plan as submitted by a principal, the Chancellor shall provide the principal with a written justification for the amendment.

(2) The Chancellor shall review the performance of each DCPS principal based upon the principal's utilization of the funds made available to the principal pursuant to subsection (a)(3) of this section, including a review of whether use of the funds has improved student achievement among at-risk students.

(3) Funds allocated pursuant to subsection (a)(3) of this section shall be supplemental to the school's gross budget and shall not supplant any Formula, federal, or other funds to which the school is entitled.

(Mar. 26, 1999, D.C. Law 12-207, § 108a, as added Feb. 22, 2014, D.C. Law 20-87, § 4(c), 61 DCR 309.)

Section references. — This section is referenced in § 38-2831.

Effect of amendments. — The 2014 amendment by D.C. Law 20-87 added this section.

Legislative history of Law 20-87. — Law 20-87, the "Fair Student Funding and School-Based Budgeting Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-309. The Bill was adopted on first and second readings on December 3, 2013, and December 17, 2013, respectively. Signed by the Mayor on January 2, 2014, it was assigned Act No. 20-257 and transmitted to Congress for its review. D.C. Law 20-87 became effective on February 22, 2014.

§ 38-2909. Cost of education adjustment. [Repealed].

Editor's notes. — Section 95(a) of D.C. Law 19-171 redesignated D.C. Law 17-111, § 4002(h) as D.C. Law 18-111, § 4002(f), which did not affect the repeal of this section.

§ 38-2911. Periodic revision of Formula.

(a)(1) Except as provided in paragraph (2) of this subsection, the Mayor and Council, in consultation with representatives of DCPS and of the Public Charter Schools, shall review and revise this Formula within 2 years of its establishment, within 2 years after this initial review and revision, and once every 4 years subsequently. Revisions shall be based upon information and data including study of actual costs of education in the District of Columbia,

consideration of performance incentives created by the Formula in practice, research in education and education finance, and public comment.

(2) Beginning January 30, 2016, the Mayor shall submit to the Council a report every 2 years that reviews the Formula and includes recommendations for revisions to the Formula based upon a study of actual costs of education in the District of Columbia, research in education and education finance, and public comment.

(b) The study of actual costs of education pursuant to subsection (a) of this section shall include but not be limited to the following:

(1) The relation of funding levels to student outcomes;

(2) Maintenance of effort in specified areas of focus to promote continuity of effective practices;

(3) Improved techniques for determining specific levels of funding needed to provide adequate special education services;

(4) Improved measures of change in the cost of education; and

(5) A review of the costs associated with serving at-risk students and of how at-risk students are identified.

(c) The Office of the State Superintendent for Education shall be responsible for the development of the report required by subsection (a) of this section and shall convene a working group, which shall be comprised of, at a minimum, representatives from DCPS, public charter schools, and the public, to solicit input and recommendations regarding revisions to the Formula.

(Mar. 26, 1999, D.C. Law 12-207, § 112, 45 DCR 8095; Mar. 2, 2007, D.C. Law 16-192, § 4002(i), 53 DCR 6899; Feb. 22, 2014, D.C. Law 20-87, § 4(d), 61 DCR 309.)

Section references. — This section is referenced in § 38-2602 and § 38-2903.

Effect of amendments.

The 2014 amendment by D.C. Law 20-87 added (a)(2); added "Except as provided in paragraph (2) of this subsection" in (a)(1); added (b)(5) and made related changes; and rewrote (c).

Legislative history of Law 20-87. — Law 20-87, the "Fair Student Funding and School-Based Budgeting Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-309. The Bill was adopted on first and second readings on December 3, 2013, and December 17, 2013, respectively. Signed by the Mayor on January 2, 2014, it was assigned Act No. 20-257 and transmitted to Congress for its review. D.C. Law 20-87 became effective on February 22, 2014.

§ 38-2913. Services.

Beginning in fiscal year 2015, services provided by District of Columbia government agencies to public schools shall be provided on an equal basis to the District of Columbia Public Schools and public charter schools. Any services that are funded apart from the Uniform per Student Funding Formula shall not also be funded by the Uniform Per Student Funding Formula.

(Mar. 26, 1999, D.C. Law 12-207, § 115, as added Sept. 24, 2010, D.C. Law 18-223, § 4062, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-370, § 402(d), 58 DCR 1008; Sept. 20, 2012, D.C. Law 19-168, § 4072, 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 4102, 60 DCR 12472.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "fiscal year 2014" for "fiscal year 2013" in the first sentence.

The 2013 amendment by D.C. Law 20-61 substituted "fiscal year 2015" for "fiscal year 2014" in the first sentence.

Emergency legislation.

For temporary (90 days) amendment of this section, see § 4102 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 4102 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — See note to § 38-2903.

Legislative history of Law 20-61. — See note to § 38-2903.

Short title.

Section 4101 of D.C. Law 20-61 provided that Subtitle J of Title IV of the act may be cited as the "Education Funding Formula Equity Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 38-2914. Public Education Finance Reform Commission.

(a)(1) An independent organization shall be retained by the Mayor of the District of Columbia to convene and staff an independent commission on public education finance reform in the District of Columbia, to be known as the Public Education Finance Reform Commission ("Commission").

(2) The Commission shall:

(A) Be conducted according to the standard procedures of the independent organization, with full cooperation of the:

(i) Council;

(ii) Mayor;

(iii) Chancellor;

(iv) State Superintendent of Education; and

(v) Other government personnel;

(B) Establish a process by which the public may participate in providing information, opinion, and reaction to Commission proceedings and reports; and

(C) Post all documents that it produces on the Internet.

(3) All Commission meetings and deliberations shall be open to the public.

(b) The Commission shall study and report on revisions to the Uniform Per Student Funding Formula with regard to improvements in:

(1) Equity;

(2) Adequacy;

(3) Affordability; and

(4) Transparency, including:

(A) The maintenance of uniformity in funding between District of Columbia Public Schools ("DCPS") and public charter schools, taking into account services provided without charge by other District of Columbia agencies;

(B) The determination of the funding level needed by DCPS and the public charter schools to provide educational services sufficient to enable public school students, including special education students and English-language learners, to meet the academic standards of the District of Columbia;

(C) The fiscal ability of the District of Columbia government to provide the necessary funding level; and

(D) The presentation of the Uniform Per Student Funding Formula and calculations made pursuant to it so that the public may clearly understand the basis of the calculations and related budget appropriations.

(c)(1) Prior to the delivery of final recommendations, the Commission shall provide to the Mayor and Council an equity report detailing for fiscal years 2009 and 2010:

(A) The kinds and amounts of payments made directly to DCPS and to public charter schools from the General Fund of the District of Columbia;

(B) The kind and amount of any other transfers from the General Fund of the District of Columbia to DCPS and public charter schools from District of Columbia government agencies;

(C) The kind and value of in-kind services provided to DCPS and the public charter schools by District of Columbia government agencies; and

(D) The kind and value of reprogrammed funds from the General Fund of the District of Columbia to DCPS or the public charter schools.

(2) The equity report shall include:

(A) An analysis of the impact of these payments, transfers, in-kind services, and reprogramming on the uniformity of funding for DCPS and public charter schools;

(B) Recommendations for increasing uniformity in the 2013 budget and succeeding years; and

(C) Weaknesses in the Uniform Per Student Funding Formula Act or in its implementation, if any, that interfere with uniformity of funding.

(d) No later than November 30, 2011, the Commission shall provide the Mayor and Council with a final report and its recommendations for consideration in the development of the fiscal year 2013 budget.

(Mar. 26, 1999, D.C. Law 12-207, § 116, as added Sept. 24, 2010, D.C. Law 18-223, § 4062, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-370, § 402(e), 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 7013, 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 97, 59 DCR 6190.)

Effect of amendments.

D.C. Law 19-21, in subsec. (c)(1), substituted "Prior to the delivery of final recommendations, the Commission shall provide to the Mayor and Council" for "No later than January 31, 2011, the Commission shall provide to the Council"; and, in subsec. (d), substituted "November 30, 2011" for "June 30, 2011".

The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 19-21 which did not affect this section as codified.

Legislative history of Law 19-21. — For history of Law 19-21, see notes under § 47-305.02.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 29B. PUBLIC SCHOOL CAPITAL SPENDING.

Subchapter I. Public School Capital Improvement Fund.

§ 38-2971.01. Establishment of the Public School Capital Improvement Fund.

Emergency legislation. — For temporary (90 days) school modernization library funding, see § 4122 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) school modernization library funding, see § 4122 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Short title. — Section 4121 of D.C. Law 20-61 provided that Subtitle L of Title IV of the act may be cited as the "School Modernization Library Initial Circulation Funding Act of 2013".

Editor's notes. — Section 4122 of D.C. Law 20-61 provided that for any completed school modernization, unexpended capital funds shall first be used to purchase the initial circulation in that school's library before being reprogrammed for any other purpose.

CHAPTER 26B. STATE ATHLETIC ACTIVITIES, PROGRAMS, AND OFFICE FUND.

§ 38-2671. Advertisements and sponsorships.

(a) Notwithstanding any other provision of law, the Mayor, through the Office of the State Superintendent of Education ("OSSE"), may enter into written agreements for advertisements and sponsorships for the State Athletic Office's ("SAO") athletic activities and programs, including those organized or directed by the SAO of OSSE or the District of Columbia State Athletic Association ("DCSAA") to supplement local funding of the DCSAA.

(b) The State Superintendent of Education may delegate, by written order, the authority to contract for advertisements or sponsorships to officials within OSSE, including to the State Athletic Officer.

(c) An agreement pursuant to this section shall not require the District to expend funds.

(d) Only advertisements shall be agreed to in exchange for corporate goods, services, or currency.

(e) There shall be no limit to the value of goods, services, or currency that may be received from a foreign organization registered or not outside of the District of Columbia or from an individual domiciled outside of the District of Columbia.

(f) There shall be a $1,000 limit on the value of goods, services, and currency that may be received during one school year from a domestic organization

registered or not within the District of Columbia or from an individual domiciled in the District of Columbia.

(g) Sponsorships and advertisements shall be memorialized by written agreement of the parties.

(h) The Chief Financial Officer shall deposit all cash proceeds received from advertisements and sponsorships pursuant to this section to the credit of OSSE in the State Athletics Activities, Programs, and Office Fund established in § 38-2672 in the same manner as that used for donations under § 1-329.01.

(Dec. 24, 2013, D.C. Law 20-61, § 4032, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see §§ 4032 and 4035 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 4032 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 4031 of D.C. Law 20-61 provided that Subtitle C of Title IV of the act may be cited as the "State Athletic Activities, Programs, and Office Fund Act of 2013".

§ 38-2672. State Athletic Activities, Programs, and Office Fund established.

(a) There is established as a special fund the State Athletic Activities, Programs, and Office Fund ("Fund"), which shall be used solely as provided in subsection (b) of this section, and which shall be administered by the State Superintendent of Education. The State Superintendent of Education may designate or assign the authority to administer the Fund to an entity within the Office of the State Superintendent of Education, including the SAO.

(b)(1) The Fund shall be used to enhance the development of state interscholastic athletic programs and competitions and to supplement the operations budget of the DCSAA. The Statewide Director of Athletics shall prioritize resources from the Fund to ensure well-designed and effective interscholastic athletic programs and competitions.

(2) The Fund may be used for the financial support of state athletic programs and competitions that are well-designed and effective and comply with National Federation of State High School Associations standards and District laws and regulations, including for:

(A) Championship events;
(B) Equipment;
(C) Memorabilia;
(D) Training;
(E) Security;
(F) Awards; and
(G) Related operations.

(c) The Fund shall consist of the revenue from the following sources:

(1) Annual appropriations;

(2) Any proceeds resulting from athletic programs and activities organized or directed by the SAO or DCSAA, or both, including:

(A) Sponsorships or advertisements;

(B) Ticket or merchandise sales;

(C) Fundraising activities;

(D) Competitions; or

(E) Other athletic programs and activities; and

(3) Interest earned on funds deposited into the Fund.

(d)(1) The money deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(Dec. 24, 2013, D.C. Law 20-61, § 4033, 60 DCR 12472.)

Section references. — This section is referenced in § 38-2671.

Emergency legislation. — For temporary (90 days) addition of this section, see § 4033 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 4033 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 38-2671.

Short title. — Section 4031 of D.C. Law 20-61 provided that Subtitle C of Title IV of the act may be cited as the "State Athletic Activities, Programs, and Office Fund Act of 2013".

§ 38-2673. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this chapter. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within the 30-day period, the proposed rules shall be deemed approved.

(Dec. 24, 2013, D.C. Law 20-61, § 4034, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 4034 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 4034 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 38-2671.

Short title. — Section 4031 of D.C. Law 20-61 provided that Subtitle C of Title IV of the act may be cited as the "State Athletic Activities, Programs, and Office Fund Act of 2013".

§ 38-2674. Applicability.

This chapter shall apply as of April 1, 2013.

(Dec. 24, 2013, D.C. Law 20-61, § 4035, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 4035 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30,

2013, 60 DCR 11384, 20 DCSTAT 1827).

Legislative history of Law 20-61. — See note to § 38-2671.

Short title. — Section 4031 of D.C. Law 20-61 provided that Subtitle C of Title IV of the act may be cited as the "State Athletic Activities, Programs, and Office Fund Act of 2013".

TITLE 39. LIBRARIES AND CULTURAL INSTITUTIONS.

SUBTITLE I. LIBRARIES.

SUBTITLE II. CULTURAL INSTITUTIONS.

SUBTITLE I. LIBRARIES.

Chapter 1. Public Libraries.

Subchapter I. General.

§ 39-105. Board of Trustees — Duties; deposit of fines.

(a) The Board of Library Trustees shall:

(1) Have the authority to provide for the care and preservation of the library;

(2) Determine the policy of the public library;

(3) Have the authority to procure all goods and services necessary to operate the library system, independent of the Office of Contracting and the requirements of Chapter 3A of Title 2, except as specified in § 2-351.05, and in accordance with subsection (c) of this section;

(4) Have the authority to establish rules necessary for the organization and governance of the Board it deems necessary;

(5) Have the authority to establish rules necessary for the management of the library;

(6) Have the authority to prescribe rules for borrowing and returning books;

(7) Have the authority to fix, assess, and collect fines and penalties for the loss or injury to books and other library materials, and for the retention of books and other library materials beyond the period fixed by library rules;

(8) Account for and control, under the rules of the library and the laws of

the District of Columbia, the spending of all public funds received by the library;

(9) Make an annual report to the Mayor and the Council of the District of Columbia on the operation of the public library on or before February 1st of each calendar year for the preceding fiscal year;

(10) Select and appoint a professional librarian as librarian of the public library to supervise and manage the day-to-day operations of the library, in accordance with the provisions of Chapter 6 of Title 1. The librarian of the public library shall appoint assistants and employees the Board deems necessary for the proper operation of the library, in accordance with the provisions of subchapter VIII of Chapter 6 of Title 1;

(11) Encourage and assist in the establishment of community support groups in the branch libraries which may advise the Board on library matters, gather information on the needs of the library, promote improvement of library services, and provide general support of library activities;

(12) Meet at least once every 2 months;

(13) Notwithstanding any other provision of law, the Board of Trustees of the District of Columbia Public Library is authorized to hire a fund raiser and to raise funds from private sources and expend those funds for the benefit of the District of Columbia Public Library, with the prior review and approval of the Chief Financial Officer for the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority.

(b) All monies received by the Board for fines and penalties shall be paid to the unrestricted fund balance of the General Fund of the District of Columbia.

(c)(1) The Board may issue rules to govern its procurement. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within the 45-day period, the proposed rules shall be deemed disapproved.

(2) The Board may exercise procurement authority consistent with rules promulgated under the Act until the Board promulgates rules under paragraph (1) of this subsection.

(June 3, 1896, 29 Stat. 244, ch. 315, § 5; Apr. 1, 1926, 44 Stat. 230, ch. 98,§ 5; Mar. 3, 1979, D.C. Law 2-139, § 3205(jjj), 25 DCR 5740; Sept. 5, 1985, D.C. Law 6-17, § 2, 32 DCR 3582; Apr. 12, 1997, D.C. Law 11-259, § 316, 44 DCR 1423; Oct. 21, 1998, 112 Stat. 2681-146, Pub. L. 105-277, § 156; Mar. 2, 2007, D.C. Law 16-197, § 2, 53 DCR 8827; Mar. 3, 2010, D.C. Law 18-111, § 4041, 57 DCR 181; Sept. 14, 2011, D.C. Law 19-21, § 9054(c), 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 217, 59 DCR 6190.)

Section references. — This section is referenced in § 1-636.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "the requirements of Chapter 3A of Title 2, except as specified in § 2-351.05" for "the requirements of Unit A of Chapter 3 of Title 2, except as specified in § 2-303.20" in (a)(3).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr.

17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 39-107. Purchase, rent, and sale of library-related items; use of profits.

The Board shall have power to purchase, rent, and sell library-related items, including, but not limited to, the following: film catalogs and other publications of the library; publications and items of special interest commemorating individuals and events connected with the library; unneeded books; video recordings; reproductions of unique library materials; and promotional items and souvenirs such as book tote bags, pens, notebooks, and postcards. Any profits realized or proceeds collected shall be deposited into the Library Collections Account, established by § 39-114.

(June 3, 1896, ch. 315, § 7, as added Oct. 8, 1981, D.C. Law 4-38, § 2, 28 DCR 3389; Mar. 14, 1984, D.C. Law 5-55, § 2, 30 DCR 6284; Sept. 14, 2011, D.C. Law 19-21, § 9053, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 4022(a), 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 4052(a), 60 DCR 12472.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "Books and Other Library Materials Account, established by § 39-114" for "unrestricted fund balance of the General Fund of the District of Columbia" in the second sentence.

The 2013 amendment by D.C. Law 20-61 substituted "into the Library Collections Account, established by § 39-114" for "into the Books and Other Library Materials Account, established by § 39-114" in the last sentence.

Temporary Amendment of Section. — Section 101(b) of D.C. Law 19-226 amended this section by striking the phrase "Books and Other Library Materials" wherever it appears and inserting the phrase "Library Collections" in its place.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) amendment of section, see § 4022(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 4022(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary amendment of section, see § 101(b) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary amendment of section, see § 101(b) of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

For temporary amendment of section, see § 101(b) of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

For temporary (90 days) amendment of this section, see § 4052(a) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 4052(a) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No.

20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 4051 of D.C. Law 20-61 provided that Subtitle E of Title IV of the act may be cited as the "Library Collections Account Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 39-113. Competitive process for performance of work.

Emergency legislation. — For temporary (90 day) addition of section, see § 4022(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 4022(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

§ 39-114. Library Collections Account.

(a) There is established as a nonlapsing account the Library Collections Account ("Account") into which shall be deposited:

(1) All receipts from the sale of used books and other library materials;

(2) Proceeds from the sale of library-related merchandise;

(3) Gifts, grants, and donations designated for collections; and

(4) Such amounts as may be appropriated for books and other library materials.

(b) The Account shall be used solely for the purpose of procuring books and other library materials, including compact disks, electronic materials, or other records and materials, to maintain and enhance the collection of the District of Columbia Public Library.

(c) All funds deposited into the Account, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(June 3, 1896, 29 Stat. 244, ch. 315, § 14, as added Sept. 20, 2012, D.C. Law 19-168, § 4022(b), 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 4052(b), 60 DCR 12472.)

Section references. — This section is referenced in § 39-107.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added this section.

The 2013 amendment by D.C. Law 20-61 substituted "Library Collections Account" for "Books and Other Library Materials Account" in the section heading and in (a).

Temporary Amendment of Section. — Section 101(b) of D.C. Law 19-226 amended this section by striking the phrase "Books and Other Library Materials" wherever it appears and inserting the phrase "Library Collections" in its place.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary addition of section, see § 4022(b) of the Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary addition of section, see § 4022(b) of the Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary amendment of section, see § 101(b) of the Fiscal Year 2013 Budget Sup-

port Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary amendment of section, see § 101(b) of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

For temporary amendment of section, see § 101(b) of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

For temporary (90 days) amendment of this section, see § 4052(b) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 4052(b) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 20-61. — See note to § 39-107.

Short title. — Section 4051 of D.C. Law 20-61 provided that Subtitle E of Title IV of the act may be cited as the "Library Collections Account Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Subchapter II. Miscellaneous.

§ 39-125. Public library hours.

[Not funded].

(Apr. 20, 2013, § 2, D.C. Law 19-256, 60 DCR 990.)

Legislative history of Law 19-256. — Law 19-256, the "Public Library Hours Expansion Act of 2012," was introduced in Council and assigned Bill No. 19-883. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 10, 2013, it was assigned Act No. 19-592 and transmitted to Congress for its review. D.C. Law 19-256 became effective on April 20, 2013.

Editor's notes. — Applicability of D.C. Law 19-256: Section 3 of D.C. Law 19-256 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

SUBTITLE II. CULTURAL INSTITUTIONS.

CHAPTER 2. COMMISSION ON THE ARTS AND HUMANITIES.

Sec.
39-202. Definitions.
39-204. Powers.
39-205.01. Arts and Humanities Enterprise Fund; establishment; accounting; investment.

§ 39-202. Definitions.

As used in this chapter:

(1) The term "Mayor" means the Mayor of the District of Columbia established under § 1-204.21.

(2) The term "Council" means the Council of the District of Columbia established under § 1-204.01.

(3) The term "Commission" means the Commission on the Arts and Humanities established by § 39-203.

(4) The term "arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, exhibition of those major art forms, and the study and application of the arts to the human environment.

(5) The term "humanities" includes, but is not limited to, the study of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archeology; comparative religion; ethics; the history, criticism, theory, and practice of the arts; those aspects of the social sciences which have humanistic content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to the relevance of the humanities to the current conditions of national life.

(6) The term "public art" means sculptures, murals, mosaics, bas-reliefs, frescoes, tapestries, monuments, fountains, environmental designs, and other visual art forms that are intended to enhance the aesthetic quality of a public building, park, street, or sidewalk or other public place with which they are physically or spatially connected. The term "public art" shall not include landscape design or the incidental ornamentation of functional structural elements or accessories unless designed by a visual artist as part of an artwork design authorized by the Commission.

(7) The term "Fund" means the Arts and Humanities Enterprise Fund established by § 39-205.01.

(Oct. 21, 1975, D.C. Law 1-22, § 3, 22 DCR 2083; June 25, 1986, D.C. Law 6-125, § 2(a), 33 DCR 2945; Jan. 29, 1998, D.C. Law 12-42, § 2(a), 44 DCR 5577.)

§ 39-204. Powers.

The Commission shall:

(1) Take action concerning the needs of the residents of the District of Columbia for activities in the arts and humanities, and concerning the development and improvement of activities in the arts and humanities in the District of Columbia;

(2) Prepare an annual plan of artistic projects and productions in the District of Columbia meeting the requirements of §§ 5(c) and 5(g) of the National Foundation on the Arts and Humanities Act of 1965, and act as the designated state agency for the District of Columbia, as referred to in § 5(g)(2)(A) of the National Foundation on Arts and Humanities Act of 1965, as amended;

(3) Make grants to individuals and groups of individuals for projects and productions in the arts and humanities;

(3A) Make grants to neighborhood or civic associations for the purpose of providing funds for parades, festivals, and any other celebrations sponsored by a neighborhood or civic association in accordance with § 1-325.211(c) and (d);

(4) Cooperate and be empowered to contract with governmental departments and agencies, private organizations, consultants, and residents of the District of Columbia to develop and undertake programs which will encourage maximum participation in activities in the arts and humanities and promote greater appreciation and enjoyment of the arts and humanities;

(5)(A) Accept donations, gifts by devise or bequest, grants, and any other type of asset from individuals, clubs, groups, corporations, partnerships, and other governmental entities;

(B) Manage any property or funds in accordance with the provisions or conditions of any donations, gifts, grants, or other transfers including the investment of the principal of such property and funds; and

(C) Deposit all funds raised pursuant to this subsection in the Fund or in the Neighborhood Parade and Festival Fund, established by § 1-325.211, if the donation, gift, or grant is designated to be used for a parade, festival, or any other celebration sponsored by a neighborhood or civic association.

(5A) Sell promotional items and prints of works of art owned by the Commission, at prices established by the Commission;

(5B) Loan works of art owned by the Commission to other entities, including museums, universities, and companies, either at no cost or at prices established by the Commission;

(6) Be empowered to appoint advisory panels in the various fields of the arts and humanities, as the Commission may deem necessary, the members of which shall serve without compensation;

(7) Adopt and modify bylaws and be empowered to adopt regulations as authorized by law; and

(8)(A) Develop and annually update, after holding a public hearing, a public arts plan that establishes priorities for the selection and location of public art for the upcoming fiscal year; and

(B) Prepare an annual report at the end of each fiscal year on the implementation of that year's public arts plan.

(1973, Ed., § 31-1904; Oct. 21, 1975, D.C. Law 1-22, § 5, 22 DCR 2086; June 25, 1986, D.C. Law 6-125, § 2(b)-(d), 33 DCR 2945; Jan. 29, 1998, D.C. Law 12-42, § 2(b), 44 DCR 5577; Sept. 24, 2010, D.C. Law 18-223, § 2002(a), 57 DCR 6242; Dec. 24, 2013, D.C. Law 20-61, § 2003, 60 DCR 12472.)

Section references. — This section is referenced in § 39-205.

Effect of amendments.

The 2013 amendment by D.C. Law 20-61 added (3A); and added "or in the Neighborhood Parade and Festival Fund, established by § 1-325.211, if the donation, gift, or grant is designated to be used for a parade, festival, or any other celebration sponsored by a neighborhood or civic association" in (5)(C).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 2003 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 2003 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title.

Section 2001 of D.C. Law 20-61 provided that Subtitle A of Title II of the act may be cited as the "Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 39-205.01. Arts and Humanities Enterprise Fund; establishment; accounting; investment.

(a) There is established the Arts and Humanities Enterprise Fund ("Fund") to be operated by the Commission.

(a-1) There shall be deposited into the Fund:

(1) Dedicated taxes as provided by subsection (a-2) of this section;

(2) Interest earned on money deposited into the Fund.

(3) Private donations, gifts, and grants; and

(4) Proceeds of the sale or loan of works of arts, prints, and promotional items.

(a-2)(1)(A) Notwithstanding § 47-392.02, from fiscal year 2014 through fiscal year 2017, of the amount of revenue by which taxes imposed by § 47-2002 ("sales-tax revenue") reported in the fiscal year's Comprehensive Annual Financial Report ("CAFR") exceed the annual sales-tax revenue estimate from February 22, 2013, quarterly revenue estimate provided by the Chief Financial Officer ("February 2013 revenue estimate"), up to $22 million of the sales-tax revenue shall be deposited into the Fund for use in the following fiscal year.

(B) The amount to be deposited in the Fund under this paragraph shall be adjusted for inflation, as measured by the percentage increase, if any, from fiscal year 2014 in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(C) The amount to be deposited in the Fund under this paragraph shall not exceed the difference between the total amount of revenue reported in the fiscal year's CAFR above the February 2013 revenue estimate.

(2) Notwithstanding § 47-392.02, beginning in fiscal year 2018 and for each fiscal year thereafter, except as provided by paragraph (4) of this subsection, 1/23rd of the sales-tax revenue reported in the prior fiscal year Comprehensive Annual Financial Report shall be deposited in the Fund.

(3) Any revenue deposited in the Fund pursuant to paragraph (2) of this subsection shall, dollar-for-dollar, be used to offset other local funds available to the Commission.

(4) For each fiscal year, any unexpended funds in the Fund attributable to dedicated taxes from the previous fiscal year shall be deducted from the amount to be deposited in that fiscal year.

(b) The monies in the Fund shall not be a part of, nor lapse into, the General Fund of the District or any other fund of the District.

(c) By October 1st of each year, the Commission shall publish in the District of Columbia Register and in a report submitted to the Council, a specific accounting of how monies in the Fund were expended and any remaining balance. The accounting shall include the following:

(1) The name of any donors or anonymous contributions;

(2) The amounts of each contribution;

(3) A description of any donated property; and

(4) Identification of the programs or recreation centers where the funds have been expended.

(d) Proceeds in the Fund may be expended for the administration, improvement, and maintenance of property and programs managed by the Commission.

(e) Proceeds in the Fund may be invested in a prudent and reasonable manner consistent with applicable District government policies and procedures.

(f) Beginning in fiscal year 2018, the Commission shall be funded entirely from moneys deposited into the Fund.

(Oct. 21, 1975, D.C. Law 1-22, § 6a, as added Jan. 29, 1998, D.C. Law 12-42, § 2(c), 44 DCR 5577; Apr. 20, 1999, D.C. Law 12-264, § 29, 46 DCR 2118; Sept. 24, 2010, D.C. Law 18-223, § 2002(b), 57 DCR 6242; Dec. 24, 2013, D.C. Law 20-61, § 7242, 60 DCR 12472.)

Section references. — This section is referenced in § 39-202 and § 47-2002.

Effect of amendments.

The 2013 amendment by D.C. Law 20-61 added (a-1)(1) and (a-1)(2), and redesignated former (a-1)(1) and (a-1)(2) as (a-1)(3) and (a-1)(4), respectively; and added (a-2) and (f).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 7242 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 7242 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 39-204.

Short title. — Section 7241 of D.C. Law 20-61 provided that Subtitle X of Title VII of the act may be cited as the "Dedicated Funding for the Commission on Arts and Humanities Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

CHAPTER 5. FILM DC ECONOMIC INCENTIVE.

§ 39-501.02. Infrastructure incentives.

(a) To be eligible for a payment under § 39-501(c), an approved applicant shall:

(1) Invest and expend at least $250,000 for a qualified film and digital media infrastructure project in the District;

(2) File an application with the Mayor pursuant to subsection (b) of this section;

(3) Enter into an agreement with the Mayor pursuant to subsection (d) of this section;

(4) Comply with the terms of the agreement; and

(5) Not be delinquent in a tax or other obligation owed to the District, or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to the District.

(b) An approved applicant seeking a payment under § 39-501(c) shall submit an application to the Mayor, in a form and with the documentation and information, including an estimate of total base infrastructure investment, as may be prescribed by the Mayor.

(c) After receiving an application under subsection (b) of this section, the Mayor shall review the application and determine whether to enter into an incentive agreement with the applicant pursuant to subsection (d) of this section. In determining whether to enter into the incentive agreement, the Mayor may consider:

(1) The potential that, in the absence of a payment under § 39-501(c), the qualified film and digital media infrastructure project in which the base infrastructure investment will be made will be constructed in a location other than the District, or not constructed at all;

(2) The extent to which the qualified film and digital media infrastructure project is likely to:

(A) Create contracting and procurement opportunities for certified business enterprises;

(B) Create jobs, job training opportunities, and apprenticeships for District residents and District youth;

(C) Promote economic development and neighborhood revitalization in the District;

(3) The extent to which the qualified film and digital media infrastructure project is likely to attract motion picture, television, and video production to the District; and

(4) The record of the applicant in completing commitments to engage in qualified film and digital media infrastructure projects.

(d) An incentive agreement entered into by the Mayor and the eligible production company shall include the following provisions:

(1) The name of the applicant;

(2) A description of the qualified film and digital media infrastructure project;

(3) The applicant's estimated base investment;

(4) A preliminary estimate of the payment to be made by the District pursuant to this agreement;

(5) Any obligations of the eligible production company, including obligations such as a commitment to hire District residents, provide apprenticeship opportunities for District residents and youth, provide employment opportu-

nities for District residents and youth, and to contract with certified business entities; and

(6) Any other provisions considered appropriate by the Mayor.

(e) If the Mayor determines, after the qualified film and digital media infrastructure project is complete, that an applicant has complied with the terms of the agreement under this section, the Mayor may provide to the company the payment authorized by § 39-501(c).

(Mar. 14, 2007, D.C. Law 16-290, § 2b, as added Mar. 3, 2010, D.C. Law 18-111, § 2071(b), 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 99(a), 59 DCR 6190.)

Section references. — This section is referenced in § 39-501 and § 39-501.01.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (c)(4).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 39-501.03. Definitions.

For the purposes of this chapter, the term:

(1) "Base infrastructure investment" means the cost, including fabrication and installation, expended by a person in the development of a qualified film and digital media infrastructure project for tangible assets of a type that are, or under the United States Internal Revenue Code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes that are physically located in the District for use in a business activity in the District and that are not mobile tangible assets. The term "base infrastructure investment" does not include qualified production expenditure or qualified personnel expenditure.

(2) "Below-the-line crew" means a person employed by an eligible production company for a qualified production after production begins and before production is completed, excluding above-the-line crew such as a producer, director, writer, actor, or other person in a similar position.

(3) "Eligible production company" means an entity in the business of producing qualified productions.

(4) "Postproduction expenditure" means a direct expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special or visual effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling, addition of sound or visual effects, advertising, marketing, distribution, and related expenses.

(5) "Qualified film and digital media infrastructure project" means a film, video, television, or digital media production and postproduction facility located in the District, movable and immovable property and equipment related to the facility, and any other facility that is a necessary component of the primary facility. The term "qualified film and digital media infrastructure

project" does not include a movie theater or other commercial exhibition facility.

(6) "Qualified job training expenditure" means salary and other expenditures paid by an eligible production company to provide qualified personnel with on-the-job training to upgrade or enhance the skills of the qualified personnel as a member of the below-the-line crew for a qualified production.

(7) "Qualified personnel" means a District resident that is legally eligible for employment.

(8) "Qualified personnel expenditure" means an expenditure made in the District directly attributable to the production or distribution of a qualified production that is a transaction subject to taxation in the District and is a payment of wages, benefits, or fees to below-the-line crew members who are not residents of the District, and includes a payment to a personal services corporation or professional employer organization for the services of qualified personnel as below-the-line crew members who are not residents of the District.

(9) "Qualified production" means motion picture, television, or video content created in whole or in part in the District, intended for nationwide distribution or exhibition by any means, including by motion picture, documentary, television programming, commercials, or internet video production and includes a trailer, pilot, or any video teaser associated with a qualified production. The term "qualified production" does not include:

(A) A production that:

(i) Consists primarily of televised news or current events;

(ii) Consists primarily of a live sporting event;

(iii) Consists primarily of political advertising;

(iv) Primarily markets a product or service other than a qualified production; or

(B) A radio program.

(10)(A) "Qualified production expenditure" means a development, preproduction, production, or postproduction expenditure made in the District that is:

(i) Directly attributable to the production or distribution of a qualified production;

(ii) Is for the production or distribution of a qualified production;

(iii) In accordance with generally accepted entertainment industry practices; and

(iv) Not a qualified personnel expenditure.

(B) Qualified production expenditure includes the purchase of tangible or intangible personal property or services related to producing or distributing a qualified production, production work, production equipment, production software, development work, postproduction work, postproduction equipment, postproduction software, set design, set construction, set operations, props, lighting, wardrobe, catering, lodging, use of facilities or equipment, use of soundstages or studios, location fees, and related services, excluding services provided by the District government, and materials, use of vehicles directly attributable to the production or distribution of a qualified production, and any

purchase of equipment relating to the duplication or market distribution of any content created or produced in the District, and payment of wages, benefits, or fees to any contractual or salaried employee, including above-the line crew such as producers, directors, writers, and actors, and below-the-line crew who are residents of the District, and excluding below-the-line crew who performs [sic] services in the District, including a payment to a personal services corporation or professional employer organization for the services of qualified personnel.

(Mar. 14, 2007, D.C. Law 16-290, § 2c, as added Mar. 3, 2010, D.C. Law 18-111, § 2071(b), 57 DCR 181; Sept. 20, 2012, D.C. Law 19-168, § 2122, 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 99(b), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 substituted "excluding above-the-line crew such as" for "including" in (2); added "who are not residents of the District" in (8); and in (10)(B), added "or intangible," "use of facilities or equipment, use of soundstages or studios, location fees, and related services, excluding services provided by the District government, and materials," and "including above-the line crew such as producers, directors, writers, and actors, and below-the-line crew who are residents of the District, and."

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (10)(A).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 19-171. — See note to § 39-501.02.

DIVISION VII. PROPERTY.

TITLE 40. LIENS.

Chapter
3. Mechanics, Materialmen, and Contractors.

Chapter 3. Mechanics, Materialmen, and Contractors.

Subchapter I. General

Sec.
40-301.02. Notice.

Subchapter II. Subcontractor's Lien

Sec.
40-303.16. Payment into court and release.

Subchapter I. General.

§ 40-301.02. Notice.

(a)(1) A contractor desiring to enforce the lien shall record in the land records a notice of intent that identifies the property subject to the lien and states the amount due or to become due to the contractor. The notice of intent shall be recorded during the construction or within 90 days after the earlier of the completion or termination of the project. If the notice of intent is not recorded in the land records during the construction or within 90 days after the earlier of the completion or termination of the project, the contractor's lien shall terminate upon the expiration of the 90-day period. A notice of intent that does not comply with subsection (b) of this section shall be void.

(2) Any contractor who records timely a notice of intent in accordance with subsection (a)(1) of this section, shall send to the owner, by certified mail to the current address (or if not available in the local public records, the last known address) of the owner, a copy of the notice of intent within 5 business days after the date of its recordation in the land records. If the certified mail is returned to the contractor unclaimed or undelivered, the contractor shall post a copy of the recorded notice of intent at or on the affected real property in a location generally visible from some entry point to the real property.

(b) The notice of intent shall include the following:

(1) The name and address of the contractor or the contractor's registered agent;

(2) The name and address of the owner or the owner's registered agent;

(3) The name of the party against whose interest a lien is claimed and the amount claimed, less any credit for payments received up to and including the date of the notice of intent;

(4) A description of the work done, including the dates that work was commenced and completed;

(5) A description of the material furnished, including the dates that material was first and last delivered;

(6) A legal description and, to the extent available, a street address of the real property;

(7)(A) To the extent available under applicable law, if the contractor is an entity organized under the laws of the District of Columbia or is doing business in the District of Columbia within the meaning of applicable District law:

(i) A copy of the contractor's current license to do business in the District issued by the Department of Consumer and Regulatory Affairs; and

(ii) A certificate of good standing from the Department of Consumer and Regulatory Affairs issued within 180 days prior to the date of the filing of the notice of intent; or

(B) To the extent available under applicable law, if the contractor is an individual or an entity organized under laws other than those of the District of Columbia, and is not doing business in the District of Columbia within the meaning of applicable District laws but is required to be licensed by a governmental entity:

(i) A copy of the contractor's current license to do business issued by the government of the other jurisdiction; and

(ii) A certificate evidencing the contractor's good standing in its place of business or state of incorporation issued by the other jurisdiction;

(8) If the project is provided under a home improvement contract, a copy of the home improvement contract; and

(9)(A) A sworn, notarized statement affirming under penalty of perjury and upon personal knowledge that:

(i) The contents of the notice of intent are true and correct to the best of the contractor's information and belief; and

(ii) The contractor has a right to recover the amount claimed.

(B) If a notice of intent is executed by an authorized representative or counsel of the contractor, he or she shall attach evidence of his or her authority to execute the notice of intent on behalf the contractor and shall affirm that the notice of intent is true and correct to the best of the affiant's knowledge and belief.

(Mar. 3, 1901, 31 Stat. 1384, ch. 854, § 1238; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 5, 1966, 80 Stat. 265, Pub. L. 89-493, § 15(a), (b); Mar. 19, 2002, D.C. Law 14-84, § 2(a), 49 DRC 198; Oct. 20, 2005, D.C. Law 16-31, § 2(c), 52 DCR 7195; June 5, 2012, D.C. Law 19-138, § 2(a), 59 DCR 2553.)

Effect of amendments.

D.C. Law 19-138, in subsec. (a)(1), substituted "during the construction or within 90 days" for "within 90 days".

Legislative history of Law 19-138. — Law 19-138, the "Mechanics Lien Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-489, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on February 7, 2012, and March 6, 2012, respectively. Signed by the Mayor on March 27, 2012, it was assigned Act No. 19-335 and transmitted to both Houses of Congress for its review. D.C. Law 19-138 became effective on June 5, 2012.

Subchapter II. Subcontractor's Lien.

§ 40-303.16. Payment into court and release.

(a) In any suit to enforce a lien under this chapter, the owner of the building and premises to which the lien may have attached may be allowed to either:

(1) Pay into court the amount claimed by the lienor, and such additional amount, to cover interest and costs, as the court may direct; or

(2) File a written undertaking, with one or more sureties, to be approved by the court, to the effect that he or she and they will pay the judgment that may be recovered, which may include interest and costs; provided, that:

(A) Where the surety is to be provided by bond, only one bond shall be required; and

(B) The judgment shall be rendered against all the persons so undertaking.

(b) On the payment of the money into court, or the approval of the undertaking pursuant to subsection (a)(2) of this section, the property shall be released from the lien, and any money so paid in shall be subject to the final decree of the court.

(c)(1) No undertaking pursuant to subsection (a)(2) of this section shall be approved by the court until the complainant shall have had at least 5 days notice of the defendant's intention to apply to the court for the approval, which notice shall give the name and residence of the person to be offered as surety, or persons if the court determines more than a single surety is required, and the time when the motion for the approval will be made.

(2) Any surety shall make oath, if required, that he or she is worth, over and above all debts and liabilities, double the amount of the lien.

(3) The complainant may appear and object to the approval.

(Mar. 3, 1901, 31 Stat. 1387, ch. 854, § 1254; June 5, 2012, D.C. Law 19-138, § 2(b), 59 DCR 2553.)

Section references. — This section is referenced in § 42-1902.02 and § 42-2025.

Effect of amendments. — D.C. Law 19-138 rewrote the section, which formerly read:

"In any suit to enforce a lien hereunder, the owner of the building and premises to which such lien may have attached, as aforesaid, may be allowed to pay into court the amount claimed by the lienor, and such additional amount, to cover interest and costs, as the court may direct, or he may file a written undertaking, with 2 or more sureties, to be approved by the court, to the effect that he and they will pay the judgment that may be recovered and costs, which judgment shall be rendered against all the persons so undertaking. On the payment of said money into court, or the approval of such undertaking, the property shall be released from such lien, and any money so paid in shall be subject to the final decree of the court. No such undertaking shall be approved by the court until the complainant shall have had at least 2 days notice of the defendant's intention to apply to the court therefor, which notice shall give the names and residences of the persons intended to be offered as sureties and the time when the motion for such approval will be made, and such sureties shall make oath, if required, that they are worth, over and above all debts and liabilities, double the amount of said lien. The complainant may appear and object to such approval."

Legislative history of Law 19-138. — For history of Law 19-138, see notes under § 40-301.02.